United States Court of Appeals

for the Second Circuit

APPENDIX

ORIGINAL

74-1220

IN THE

United States Court of Appeals

FOR THE SECOND CIRCUIT

No. 74-1220

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

—against—

VINCENT ALOI, JOHN DIOGUARDI, RALPH LOMBARDO and JOHN SAVINO,

Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

APPELLANTS' JOINT APPENDIX

KRISTIN GLEN
Attorney for Defendant-Appellant Vincent Aloi
30 East 42nd Street
New York, New York
687-2033

GRETCHEN WHITE OBERMAN
Attorney for Defendant-Appellant John Dioguardi
277 Broadway
New York, New York
267-7637

GUSTAVE H. NEWMAN
Attorney for Defendant-Appellant Ralph Lombardo
522 Fifth Avenue
New York, New York 10036
682-4022

LA ROSSA, SHARGEL & FISCHETTI
Attorneys for Defendant-Appellant John Savino
522 Fifth Avenue
New York, New York 10036
687-4100

[illegible] INC., 421 HUDSON ST., N.Y.—ORegon 5-4540

UNITED STATES COURT OF APPEALS
FILED
MAY 17 1974
A. DANIEL FUSARO, CLERK

PAGINATION AS IN ORIGINAL COPY

INDEX

	Page
Docket Entries	1
Indictment	10
Prospectus of At-Your-Service Leasing Corp.	46
Charge To The Court.	65
Sentence Minutes of Vincent Aloi	132
Judgment and Commitment of John J. Savino	174
Judgment and Commitment of Vincent Aloi	176
Judgment and Commitment of Ralph Lombardo	179
Judgment and Commitment of John Dioguardi	182
Notice of Appeal of John J. Savino	185
Notice of Appeal of Vincent Aloi	186
Notice of Appeal of Ralph Lombardo	187
Notice of Appeal of John Dioguardi	188

DOCKET ENTRIES

THE UNITED STATES

vs. 73 CRIM 699

VINCENT ALOI JUDGE KNAPP
SEBASTIAN ALOI a/k/a "Buster"
JOHN DIOGUARDI a/k/a "Johnny Dio"
GILBERT C. DRAGANI
ARTHUR FERNINAND
DONALD K. FISHER
GARY FREDRICKS
PASQUALE FUSCO
J. JACK GANEK
EDMOND GRAIFER
MURRAY A. HANDLER
RALPH LOMBARDO
GERALD E. MILLER
ANDREW G. NELSON, JR.
LOUIS NOVA
SANFORD L. PRICE
JOHN J. SAVINO

PROCEEDINGS

7-19-73	Filed Indictment Assigned to Judge Knapp as a related matter. (73 Cr. 362)	
8-13-73	SANFORD L. PRICE) MURRAY A. HANDLER) J. JACK GANEK) A. FERDINAND)	All defts. plead NOT GUILTY (Attys present). All defts ordered photographed & fingerprinted...Wyatt, J.
8-28-73	ARTHUR FERDINAND - filed notice of appearance of atty. by Joseph E. Brill, 233 Bway, NYC 10007 233-6150	
8-29-73	SANFORD PRICE - filed notice of appearance of atty. by Jerome J. Londin, 10 E. 40th St., N.Y.C. 10016 Tel: 685-2700	

9-14-73 VINCENT ALOI - filed affdvt. for writ of habeas corpus ad prosequendum. Issued writ ret: 9-20-73.

9-20-73 Pre-trial conference held. Deft. V. Aloi (atty only present) adj. to 9/27/73 at 9:30 AM. Deft. Fusco (atty present) pleads not guilty; bail set in the amount of $10,000. Personal Recognizance Bond to be secured by deft's signature.
Deft. Fredricks (atty present) pleads not guilty; deft. released on own recognizance.
Deft. Lombardo (atty present) pleads not guilty; bail set in the amount of $25,000. Personal Recognizance Bond to be secured by deft's signature.
Deft. Miller (atty present) pleads not guilty; deft. released on own recognizance.
Deft. Nova (atty present) pleads not guilty; deft. released on own recognizance.
Deft. Savino (atty present) pleads not guilty; bail set in the amount of $10,000. Personal Recognizance Bond to be secured by deft's signature.
Govt's application to adjourn trial date is denied. Trial date of 10-30-73 is confirmed.
Knapp, J.

9-21-73 Govt's reargument of its motion of 9-20-73 to adj. trial date is adjd. to 9-24-73 at 4:30 PM.
Documents marked for identification
Court Exh. #1, 2 & 3 Defts. Lombardo, Savino & Fusco's waivers of speedy trial.

9-24-73 Pre-trial conference held. Govt. reargues its motion for a continuance. Motion denied.
Knapp, J.

9-24-73 HANDLER & GANEK - filed notice of motion re: severing the trial of said defts from the trial of their co-defendants.

9-24-73 GANEK, HANDLER, PRICE & FERDINAND - filed notice of motion re: order dismissing the superseding indictment, 73 Cr. 699, filed 7-9-73.

10-24-73	Edmond Gaifer - Transferred to the Dist. of New Jersey pursuant to Rule 20 for plea and sentence. (JS3 mailed).
10-16-73	S. ALOI - filed ORDER that the deft. be examined by Dr. Arthur Cohen, Miami, Florida to determine whether grave injury to the health of deft. would result if he travelled to N.Y. to stand trial, that said doctor report to court his findings, and that should the court or said physician's report determine that deft. is able to stand trial, that said deft. be prepared to appear in S.D.N.Y. on 10-30-73. Knapp, J.
10-17-73	Filed MEMORANDUM & ORDER...Court stands by its original decision that count 38 should be severed, on the issue of aliases, the Court ordered that all references to Buster Aloi, Johnny Dio & Checko Brown be deleted from the superseding indictment, and that Paragraphs 12, 13, 14 & 15 of the superseding indictment are allowed to stand, etc. Knapp, J.
10-23-73	J. DIOGUARDI - filed ORDER that Dr. Alan Aronson examine deft. to determine his ability to stand trial, that said doctor report to court his findings and that deft. shall pay for such services of doctor. Knapp, J.
11- 8-73	G. MILLER - filed CJA form 20 appointment of counsel, Julius Wasserstein, 26 Court Street, Bklyn., NY 11242 237-1387. Knapp, J.
11-21-73	Filed true copy of order dated 10-23-73 and marshal's return: order executed 10-25-73.
11- 5-73	Jury trial begun before Judge Knapp.
11- 7-73	Trial Cont'd.
11- 8-73	Trial Cont'd.

11- 9-73	Trial cont'd.
11-12-73	Trial cont'd.
11-13-73	Trial cont'd.
11-14-73	Trial cont'd.
11-15-73	Trial cont'd.
11-16-73	Trial cont'd.
11-19-73	Trial cont'd.
11-20-73	Trial cont'd.
11-21-73	Trial cont'd.
11-29-73	Trial cont'd. Deft. Fusco's motion for a severance and the declaration of a mistrial as to him is granted. Knapp, J.
12- 3-73	Trial cont'd.
12- 4-73	Trial cont'd.
12-13-73	Filed ORDER that the aforesaid safety deposit box be unsealed and opened, by whatever means necessary, and that an inventory be made of the contents of the box, and that a representative of the Govt. and a representative of the defts. be present at the opening of the aforesaid safety deposit box. Knapp, J.
11-26-73	Filed ORDER that Dr. Meyer Texon is appointed to examine Pasquale Fusco to determine his ability to stand trial, that the said doctor report to the Court his findings and the Administrative Office of the U.S. Court shall pay the reasonable cost of said examination not to exceed $400.00. Knapp, J.

9-25-73	GARRY FREDRICKS - filed CJA 20 appointment of Robert Mitchell, Esq., 51 Chambers St., NYC 10007 Wo 2-0675. mailed copies.
9-28-73	Deft. V. Aloi (atty present) pleads not guilty. Bail set at $2[illegible],000. Personal Recognizance Bond unsecured. Deft. produced on a (illegible) which was adj. to 10-1-73. Knapp, J.
9-28-73	VINCENT ALOI - filed personal recognizance bond without security in the sum of $25,000. Acknowledged 9-28-73, Clerk.
10- 1-73	JOHN J. SAVINO - filed personal recognizance bond in the sum of $10,000. without security. Acknowledged 10-1-73, Clerk.
10- 1-73	P. FUSCO - filed personal recognizance bond in the sum of $10,000.00. Acknowledged by Clerk, 10-1-73.
10- 4-73	Filed Govt's memorandum of law in support of Govt's position that count 38 should not be severed.
10-10-73	J. DIOGUARDI - filed Govt's affdvt. for writ of habeas corpus ad pros. issued writ ret: 10-15-73.
10-12-73	G. MILLER - Julius Wasserstein, Esq., 26 Court Street, Bklyn., NY 11242 237-1387
10-11-73	Deft. Miller (atty present) withdraws his plea of not guilty and pleads Guilty to count one only. Pre-sentence investigation ordered. Sentence adj. sine die. Deft. cont'd released on own recognizance.
10-15-73	Deft. Dioguardi (atty present) produced on a writ pleads not guilty to this indictment. Plea is accepted & the writ adj. to 10-30-73. Knapp, J.

12-14-73	Filed ORDER that the safety deposit box (Bankers' Trust Co.) be opened by whatever means necessary and than an inventory be made of the contents of the box, and that a representative of the Govt. and a representative of the defts. be present at the opening, etc. Knapp, J.
12-14-73	Filed ORDER that the safety deposit box (Chemical Bank) be opened and that an inventory be made of the contents of the box and that a representative of the Govt. and a representative of the defts. be present at the opening, etc. Knapp, J.
12-18-73	Filed ORDER that safety deposit box, in the Banker's Trust Co. be opened by whatever means necessary, and that an inventory be made of the contents of the box, and that a representative of the govt. and a representative of the defts. be present at the opening. Knapp, J.
1- 2-74	Filed ONE ENVELOPE - documents herein ordered sealed, to be opened only by order of this court or the court of appeals, and to be placed in the vault in the Clerk's Office, Knapp, J.
12- 5-73 to 12-21-73	Trial cont'd.
12-22-73	Trial cont'd. & concluded. Jury returns with a verdict at 3:35 PM. Defts. V. Aloi found guilty on counts 1, 10 & 18. Defts. Dioguardi & Lombardo found guilty on cts. 1, 9 & 18. Deft.. Savino found guilty on cts. 1 & 18. Presentence investigation ordered. Sentence adj. to 2-5-74. Knapp, J.
1-10-74	Filed transcript of record of proceedings dated Oct. 30, 31, 1973, Nov. 1, 1973.
1-10-74	Filed transcript of record of proceedings dated Nov. 1, 5, 1973 Nov. 7, 8, 9, 1973.

1-10-74	Filed transcript of record of proceedings dated Nov. 12, 1973, Nov. 13, 14, 15, 1973.
1-10-74	Filed transcript of record of proceedings dated Nov. 16, 1973, Nov. 19, 20, 1973.
1-10-74	Filed transcript of record of proceedings dated Nov. 21, 1973, Nov. 26, 38, 29, 1973.
1-10-74	Filed transcript of record of proceedings dated Dec. 3, 4, 5, 6, 1973.
1-10-74	Filed transcript of record of proceedings dated Dec. 10, 11, 12, 13, 1973.
1-10-74	Filed transcript of record of proceedings dated Dec. 14, 17, 18, 19, 20, 1973.
1-10-74	Filed transcript of record of proceedings dated Dec. 21, 22, 1973.
1-29-74	Filed deft. Lombardo's notice of motion re: order setting aside the conviction of deft., new trial, etc. ret: 2-5-74.
2- 5-74	Filed Gov't's Memo of Law re: opposition to deft. Lombardo's motion for new trial.
2- 5-74	V. Aloi - filed Notice of Appeal from judgmt. dtd. 2-5-74. mailed copies to U.S. Atty, defts. atty, deft.
2- 7-74	R. Lombardo - Filed Notice of Appeal from judgment dated 2-5-74.
2- 7-74	J. Savino - Filed Notice of Appeal from judgment dtd. 2-5-74.
2- 5-74	J. Savion (sic) - filed unsecured personal recognizance bond pending appeal, in the sum of $150,000.
2-11-74	Filed ORDER that the Warden of the Fed. House

of det. retain V. Aloi at said House of Det. for 30 days from the date hereof, subject to further other (sic) of this court and the discretion of the Warden. Knapp, J.

2-11-74 Filed ORDER that the Warden of the Fed. House of Det. retain R. Lombardo at the said House of Det. for 30 days from the date hereof, subject to the further order of this court and the discretion of the Warden. Knapp, J.

2-13-74 J. Dioguardi - filed notice of appeal from judgment dat. (not entered as of date of filing) mailed copies to U.S. Atty & atty for deft.

2- 5-74 JOHN J. SAVINO - Filed Judgment - (atty present) Deft. is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of TWO (2) YEARS and SIX (6) MONTHS on count 1, and FIVE (5) YEARS on count 18. Execution of said term of imprisonment on count 18 is suspended and deft. placed on probation for a period of FIVE (5) YEARS. Deft. is fined in the sum of $10,000 on count 1 and $5,000 on count 18. The deft. is ordered to stand committed until the fine is paid or he is otherwise discharged by due course of law. Bail pending appeal set in the sum of $150,000. Personal Recognizance Bond. Knapp, J. 2/26/75 Issued copies. ent. 2/26/74

2- 5-74 JOHN DIOGUARDI - Filed Judgment (atty present). Deft. is hereby committed to the custody of the Atty General or his authorized representative for a period of FIVE (5) YEARS on each of counts 1 and 18 to run consecutively to each other and to run consecutive to the term of imprisonment imposed in indictment 66 Cr 385, but concurrent with term of imprisonment imposed on indictment 71 Cr. 558, and FIVE (5) YEARS on count 9. Execution of said term of imprisonment on count 9 is suspended and deft. placed on probation for a period of FIVE (5) YEARS. KNAPP, J. 2/26/74 Issued commitments ent. 2/26/74

2- 5-74 VINCENT ALOI - Filed Judgment (atty present). Deft. is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on count 1 and FOUR (4) YEARS on count 18 to run consecutively to each other and consecutively to the term of imprisonment imposed previously by the State Court, and FIVE (5) YEARS on count 10. Execution of said term of imprisonment on ct. 10 is suspended and deft. placed on probation for a period of FIVE (5) YEARS. Deft. is fined in the sum of $10,000 on count 1, $1,000 on count 10, and $5,000 on count 18. The deft. is ordered to stand committed until the fine is paid or he is otherwise discharged by due course of law. Knapp, J.
2/26/74 Issued committments ent. 2/26/74

2- 5-74 RALPH LOMBARDO - Filed Judgment (atty present). Deft. is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on each of counts 1 and 18, said terms of imprisonment to run concurrent with each other and FIVE (5) YEARS on count 9. Execution of said term of imprisonment on count 9 is suspended and deft. placed on probation for a period of FIVE (5) years. Deft. is fined in the sum of $10,000 on count 1, $1,000 on count 9, and $5,000 on count 18. The deft. is ordered to stand committed until the fine is paid or he is otherwise discharged by due course of law. Knapp, J.
2/26/74 Issued commitments ent. 2/26/74

INDICTMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA,

v.

VINCENT ALOI
SEBASTIAN ALOI, a/k/a "Buster" Aloi,
JOHN DIOGUARDI, a/k/a "Johnny Dio",
GILBERT C. DRAGANI,
ARTHUR FERDINAND,
DONALD K. FISHER,
GARY FREDRICKS,
PASQUALE FUSCO, a/k/a "Checko Brown",
J. JACK GANEK,
EDMOND GRAIFER,
MURRAY A. HANDLER,
RALPH LOMBARDO,
GERALD E. MILLER,
ANDREW G. NELSON, JR.
LOUIS NOVA,
SANFORD L. PRICE and
JOHN J. SAVINO,

73 Cr. 699

Defendants.

----------X

The Grand Jury charges:

1. From on or about the 1st day of July, 1969, up to and including the 31st day of January, 1971, in the Southern District of New York and elsewhere, VINCENT ALOI, SEBASTIAN ALOI, a/k/a "Buster" Aloi, JOHN DIOGUARDI, a/k/a "Johnny Dio", RALPH LOMBARDO, PASQUALE FUSCO, a/k/a "Checko Brown", JOHN J. SAVINO, EDMOND GRAIFER, ANDREW G. NELSON, JR., GERALD E. MILLER, SANDFORD L. PRICE, ARTHUR FERDINAND,

J. JACK GANEK, MURRAY A. HANLER, GILBERT C. DRAGANI, DONALD K. FISHER, LOUIS NOVA and GARY FREDRICKS, the defendants, together with Maurice Benjamin, Paul Cardinale, Tony Cardinale, Michael Hellerman, Martin Roth, Anthony Soldano, Arthur Sommer, Thomas Wanderon and Morris Winter, named herein as co-conspirators, but not as defendants, and other to the Grand Jury known and unknown, unlawfully, wilfully and knowingly did combine, conspire, confederate and agree together and with each other to commit certain violations of federal law, to wit, violations of Title 15, United States Code, Sections 77q(a), 77s(a), 77x and 17 C.F.R. §230.256 and §240.10b-5.

Factual Setting

2. Between 1966 and 1971, At-Your-Service Leasing Corp. ("AYSL") was a car leasing corporation, offering luxury automobiles on long-term leases. AYSL's principal place of business was 449 60th Street, West New York, New Jersey. As of April 8, 1970, the business of AYSL was owned and managed by the following individuals: the defendant SANDFORD L. PRICE was President; the defendants ARTHUR FERDINAND and MURRAY A. HANDLER were Vice Presidents, the defendant J. JACK GANEK was Treasurer, and the defendant

EDMOND GRAIFER was Secretary. GRAIFER was in charge of the day-to-day operation of AYSL.

3. The defendants FERDINAND, PRICE, GANEK and HANDLER at all times relevant herein were certified public accountants and partners in the accounting firm of Price, Ferdinand, Ganek and Handler, having their principal place of business also at 449 60th Street, West New York, New Jersey.

4. From AYSL's inception, the company was in a weak financial condition and consistently operated at a loss. The balance sheet of AYSL as of October 31, 1969 reflected an accumulated deficit of $103,199 and cash of only $158. In order to sustain AYSL's operation, the defendants FERDINAND, PRICE, GANEK and HANDLER from time to time caused AYSL to borrow money from a number of their own accounting clients. The aforesaid loans, which totaled $114,500 as of October 31, 1969, were personally guaranteed by the aforesaid accountants.

5. In order to repay the aforesaid loans and to raise additional funds to carry on the business, the defendants PRICE, FERDINAND, GANEK, HANDLER and GRAIFER, the principals of AYSL, sought to raise money through an offering of shares

of AYSL stock to the public.

6. At all times relevant herein, the defendants ANDREW NELSON and GERALD MILLER did business as Tech-Ec Systems ("Tech-Ec"), financial consultants, and as RLM Services, Ltd., the ultimate transfer agent of AYSL. The defendant MILLER was further an attorney admitted to practice in the State of New York.

7. At all times relevant herein, TDA Securities, Inc. ("TDA") of 70 North Franklin Street, Hempstead, New York, was a broker-dealer which acted from time to time as an underwriter of new public issues in the over-the-counter market. The principals of TDA were the defendant GILBERT C. DRAGANI, President and Treasurer, and the defendant, DONALD FISHER, Secretary. The defendant LOUIS NOVA was Sales Manager and Trader.

8. AYSL stock was offered to the public under terms contained in an offering circular filed with the United States Securities and Exchange Commission: Briefly stated 100,000 shares of AYSL were offered at $3 per share, with the stipulation that, at least, a minimum of 50,000 shares had to be sold within a 90 day period or the money put up by the subscribers was to be returned.

9. At all times relevant herein co-conspirator Michael Hellerman held himself out as able and willing to facilitate the underwriting of new issues in the over-the-counter market.

10. At times relevant herein, co-conspirator Hellerman reported to the defendant JOHN DIOGUARDI, also known as "Johnny Dio".

11. At times relevant herein the defendant RALPH LOMBARDO was the source of substantial cash which he would, from time to time, make available for loans or for other purposes. The defendant LOMBARDO was associated with the defendant SEBASTIAN ALOI, also known as "Buster" Aloi.

12. At all times relevant herein, the defendants LOMBARDO and GRAIFER reported to the defendant SEBASTIAN ALOI.

13. The defendants PASQUALE FUSCO, also known as "Checko Brown", and JOHN J. SAVINO, were associated with the defendants SEBASTIAN ALOI and VINCENT ALOI.

14. At all times relevant herein the defendants FUSCO and SAVINO reported to the defendant VINCENT ALOI, the son of the defendant SEBASTIAN ALOI.

15. The defendants VINCENT ALOI, SEBASTIAN ALOI, FUSCO, SAVINO, LOMBARDO and GRAIFER were not directly associated

the defendant DIOGUARDI and co-conspirator Hellerman.

Objects of the Conspiracy

16. It was part of said conspiracy that the said defendants and co-conspirators unlawfully, wilfully and knowingly in the offer and sale of securities, to wit, common stock of AYSL, by the use of means and instruments of transportation and communications in interstate commerce and by the use of the mails, would directly and indirectly (a) employ devices, schemes and artifices to defraud; (b) obtain money and property by means of untru statements of material facts and omissions to state material facts necessary in order to make the statements made in the light of the circumstances under which they were made, not r .sleading; and (c) engage in transactions, practices and courses of business which would and did operate as a fraud and deceit upon the purchasers of the common stock of AYSL, in violation of Section 77q(a) of Title 15, United States Code.

17. It was further a part of said conspiracy that the said defendants and co-conspirators in connection with the offer and sale of AYSL common stock would unlawfully, wilfully and knowingly use and cause to be used false and mis-

leading statements in a written offer of securities, to witn, an offering circular, required to be made and filed by the United States Securities and Exchange Commission under Title 15, United States Code, Section 77s(a) and Rule 256(e) (17 C.F.R. Section 230.256(e)) and Form 1A, Schedule 1 promulgated thereunder.

18. It was further a part of said conspiracy that the said defendants and co-conspirators unlawfully, wilfully and knowingly, directly and indirectly, by the use of means and instrumentalities of interstate commerce and of the mails would use and employ manipulative and deceptive devices and contrivances in connection with the purchase and sale of securities, to wit, common stock of AYSL, in violation of Rule 10b-5 (17 C.F.R. §240.10b-5), prescribed by the Securities and Exchange Commission as necessary and appropriate in the public interest and for the protection of investors.

Means of the Conspiracy

19. Among the means by which the said defendants and co-conspirators would and did carry out the said conspiracy were the following:

(a) In or about July, 1969, the defendants PRICE, FERDINAND, GANEK, HANDLER, and GRAIFER, enlisted the de-

fendants ANDREW G. NELSON, JR. and GERALD E. MILLER, who were doing business as Tech-Ec Systems, to obtain an underwriter for and manage the AYSL public offering.

(b) In or about the latter part of 1969, the defendants NELSON and MILLER with the assistance of the defendants PRICE, FERDINAND, GANEK and HANDLER worked out the terms of the offering and prepared the AYSL offering circular.

(c) In or about the early part of 1970, the defendants NELSON and MILLER enlisted TDA as underwriter for the AYSL offering.

(d) On or about April 8, 1970, the effective date of the offering, the defendants, NELSON, MILLER, DRAGANI, and FISHER met with the defendants GRAIFER and FERDINAND at TDA's offices; DRAGANI asserted that TDA would appear on the offering circular in name only and would not obtain purchasers for AYSL stock. In or about the first week in May 1970, the defendants PRICE, FERDINAND, GANEK and HANDLER personally from their accounting firm and over the objection of GRAIFER paid TDA $2,500 to keep TDA from removing its name from the offering circular and withdrawing from the offering.

(e) In or about the first weeks in May 1970 (there

having been no sales of AYSL stock) the defendants PRICE, FERDINAND, GANEK and HANDLER asked the defendant GRAIFER to do what he could to sell the offering. Thereafter, GRAIFER approached his associate, the defendant LOMBARDO, to assist in selling AYSL stock.

(f) Thereafter, the defendants LOMBARDO and GRAIFER met with the defendant SEBASTIAN ALOI in Miramar, Florida and SEBASTIAN ALOI instructed LOMBARDO to contact the co-conspirator Michael Hellerman to obtain his assistance in the AYSL public offering.

(g) Thereafter, the defendants LOMBARDO and GRAIFER met with co-conspirator Hellerman to discuss the offering and the terms of Hellerman's participation. These terms, including the agreement for an under-the-table payment of $45,000 to Hellerman from the offering, were then confirmed with the defendant DIOGUARDI. Subsequently, it was necessary for DIOGUARDI to speak by telephone to the defendant SEBASTIAN ALOI in Miami to confirm and guarantee the terms with him.

(h) Thereafter, the defendants VINCENT ALOI, FUSCO and SAVINO caused Hellerman's participation in the offering to be halted because Hellerman owed money to FUSCO and SAVINO from a prior securities transaction. Upon hearing about the

action of the defendants VINCENT ALOI, FUSCO and SAVINO which cuased Hellerman to be withdrawn from the offering, the defendant GRAIFER complained to the defendant SEBASTIAN ALOI who in turn spoke on the telephone to his son, VINCENT ALOI, and requested that Hellerman be reinstated. Hellerman was reinstated by VINCENT ALOI, FUSCO and SAVINO upon condition that FUSCO and SAVINO receive $10,000 of the $45,000 under-the-table payment that was to be directed to Hellerman from the offering. It was further agreed and confirmed that of the $45,000 payment, the defendant LOMBARDO would also receive $10,000, in order to repay a certain obligation Hellerman owed to the defendant LOMBARDO, and the defendant DIOGUARDI would receive $25,000.

(i) In or about May through July 1970, notwithstanding that AYSL was then and there insolvent, the defendants PRICE, FERDINAND, GANEK and HANDLER supplied TDA with names of prospective purchasers of stock, and co-conspirator Hellerman offered some of his associates guaranteed profits if they would buy AYSL stock.

(j) On or about July 29, 1970, three weeks after the final date for sale of AYSL stock as permitted by the rules and regulations of the Securities and Exchange

Commission, the defendants GRAIFER, MILLER, NELSON, DRAGANI, FISHER, FERDINAND and LOMBARDO and co-conspirators Hellerman and Winter held what purported to be a closing for the AYSL public offering, despite the fact that the required minimum number of 50,000 shares had not been sold. At the closing, persons whose names had been taken at random from the telephone book were listed as purchasers of AYSL stock. Subsequently, records of TDA were falsified and backdated to reflect that the closing had been held prior to July 7, 1970.

(k) After the aforesaid purported closing, the defendant GARY FREDRICKS secured brokers to buy AYSL shares from TDA and with the defendant LOUIS NOVA arranged to have Wanderon & Co. in turn purchase the shares from the said brokers. To complete the circle, the defendant NOVA agreed with the co-conspirator Thomas Wanderon that TDA would purchase the said shares back from Wanderon & Co. These aforesaid arrangements would and did create the appearance of an active market in AYSL stock.

(l) From the 29th day of July, 1970, up to the 17th day of August, 1970, the defendants DRAGANI and FISHER wrote a series of checks from TDA to AYSL from the proceeds of the sales of AYSL stock. Following the payment of $127,500 by

TDA to AYSL, the defendant GRAIFER took $45,000 in cash from AYSL which he gave personally to the defendant LOMBARDO who in turn gave it to the defendant VINCENT ALOI. Subsequently, pursuant to the terms of the understanding, the defendant DIOGUARDI allocated the money as follows: $10,000 went to FUSCO and SAVINO as aforesaid, $10,000 to LOMBARDO as aforesaid, and $25,000 to DIOGUARDI as aforesaid.

(m) The defendants PRICE, FERDINAND, GANEK and HANDLER repaid loans from their clients to AYSL which they had previously personally guaranteed as aforesaid from the remainder of the $127,500 received by AYSL from TDA.

(n) The defendants and co-conspirators directly and indirectly employed in the offering of AYSL stock, an offering circulr which failed to disclose material facts, including the following:

(1) By contractural agreement between AYSL and Tech-Ec, $10,000 of the proceeds from the offering was to be used to pay Tech-Ec for serving as management consultants to AYSL in the offering.

(2) The defendants PRICE, FERDINAND, GANEK and HANDLER, principals in AYSL, were personally liable on loans from their accounting

clients to AYSL which were to be repaid from the proceeds of the offering to AYSL.

(3) TDA was to receive a $2,500 payment in advance of the offering which payment was made personally by the accounting firm of the defendants PRICE, FERDINAND, GANEK and HANDLER over the objection of the defendant GRAIFER.

(4) TDA was to serve as underwriter in name only and did not intend to make efforts to obtain purchasers for the stock.

(5) Co-conspirator Michael Hellerman was the undisclosed underwriter of the AYSL offering as that term is defined in Section 2(11) of the Securities Act of 1933.

(6) $45,000 of the proceeds from the offering were to be paid under-the-table to the defendant VINCENT ALOI for the defendants LOMBARDO, FUSCO, SAVINO and DIOGUARDI.

(7) The defendant LOMBARDO was to receive approximately $200 per week from AYSL, free use of an

AYSL automobile and free use of an AYSL credit card for his assistance in arranging the offering.

(o) The defendants and co-conspirators directly and indirectly, conducted the AYSL offering in violation of terms set forth in the AYSL offering circular; among such terms violated by the defendants and co-conspirators were the following:

(1) Despite the fact that the minimum number of 50,000 shares required to be sold within the 90 day designated period ending July 7, 1970 were not sold, funds were never returned to subscribers and the offering was not terminated.

(2) A closing was held on or about July 28, 1970, three weeks after the July 7, 1970 deadline.

(3) Funds received from the public offering were not all deposited in the special escrow account of New York and elsewhere:

1. On or about April 8, 1970, the defendants CRAIFER, NELSON, MILLER, DRAGANI, FISHER and FERDINAND met at the offices of TDA, 70 North Franklin Street, Hempstead, New York.

2. In or about the first week of May, 1970, the defendants PRICE, FERDINAND, GANEK and HANDLER paid $2,500 to TDA.

3. In or about April or May, 1970, the defendants GRAIFER, LOMBARDO, and SEBASTIAN ALOI met in Miramar, Florida.

4. In or about May, 1970, the defendants GRAIFER and LOMBARDO and the co-conspirator Hellerman met at a restaurant at 350 Fifth Avenue, New York, New York.

5. In or about May, 1970, the defendants LOMBARDO, DIOGUARDI and co-conspirator Hellerman met at the offices of Jard Products in New York City.

6. In or about May, 1970, the defendant DIOGUARDI in New York City had a telephone conversation with the defendant SEBASTIAN ALOI in Florida.

7. In or about May or June, 1970, the defendant GRAIFER spoke with the defendants PRICE, FERDINAND and HANDLER at 449 60th Street, West New York, New Jersey, who thereafter spoke to the defendant GANEK.

8. In or about May or June, 1970, the defendant GRAIFER met the defendants FUSCO and SAVINO at the Skyway Motel, John F. Kennedy Airport, New York, New York.

9. In or about May or June, 1970, the defendant GRAIFER met the defendant SEBASTIAN ALOI in Miami, Florida.

10. In or about May or June, 1970, the defendant SEBASTIAN ALOI in Florida had a telephone conversation with the defendant VINCENT ALOI in Suffern, New York.

11. In or about June or July, 1970, the co-conspirator Hellerman and the defendants VINCENT ALOI and FUSCO met at the Spindleton Restaurant, 254 West 47th Street, New York, New York.

12. On or about July 28, 1970, the defendants GRAIFER, MILLER, NELSON, DRAGANI, FISHER, and FERDINAND and co-conspirators Hellerman and Winter were present and attended the AYSL closing at the office of Stoma Investment Corporation, 31 E. 28th Street, New York, New York. The defendant LOMBARDO was also present at the offices of Stoma.

13. On or about July 31, 1970, the defendant PRICE caused AYSL to pay $30,000 to Lila Hirsch in repayment of a loan by her to AYSL.

14. In or about the latter part of July or early August, 1970, the defendant GRAIFER paid $45,000 in cash to the defendant LOMBARDO.

15. In or about August, 1970, the defendant LOMBARDO

delivered $45,000 in cash to the defendants VINCENT ALOI and DIOGUARDI.

16. In or about August, 1970, the defendants SAVINO and FUSCO received $10,000 out of the aforesaid $45,000.

17. In or about August, 1970, the defendant LOMBARDO received $10,000 out of the aforesaid $45,000.

18. In or about August, 1970, the defendant DIOGUARDI received $25,000 out of the aforesaid $45,000.

19. In or about August, 1970, the defendant GRAIFER flew from New York to Miami to meet the defendant SEBASTIAN ALOI.

Each of the mailings and uses of means and instruments of transportation and communication in interstate commerce hereinafter set forth in Counts Two through Thirty-eight are alleged herein as overt acts.

(Title 18, United States Code, Sections 371 and 2)

COUNTS TWO THROUGH EIGHT

The Grand Jury further charges:

From on or about the 1st day of June, 1969, up to and including the 31st day of January, 1971, in the Southern District of New York and elsewhere, the defendants VINCENT ALOI, SEBASTIAN ALOI, a/k/a "Buster Aloi", JOHN DIOGUARDI,

a/k/a "Johnny Dio", RALPH LOMBARDO, PASQUALE FUSCO, a/k/a "Checko Brown", JOHN J. SAVINO, EDMOND GRAIFER, ANDREW G. NELSON, JR., GERALD E. MILLER, SANDFORD L. PRICE, ARTHUR FERDINAND, J. JACK GANEK, MURRAY A. HANDLER, GILBERT C. DRAGANI, DONALD K. FISHER, LOUIS NOVA and GARY FREDRICKS, unlawfully, wilfully and knowingly in the offer and sale of securities, to wit, common stock of AYSL, by the use of means and instruments of transportation and communications in interstate commerce and by the use of the mails as hereinafter specified did directly and indirectly (a) employ devices, schemes and artifices to defraud; (b) obtain money and property by means of untrue statements of material facts and omissions to state material facts necessary in order to make the statements made in the light of the circumstances under which they were made, not misleading; and (c) engage in transactions, practices and courses of business which would and did operate as a fraud and deceit upon purchasers of said securities.

2. The allegations contained in paragraph 19 of this indictment are repeated and realleged as though fully set forth herein as constituting and describing the means by which the defendants committed the offense charged in

paragraph 1 of these Counts.

3. On or about the dates hereinafter set forth in Counts Two through Eight, in the Southern District of New York and elsewhere, the defendants VINCENT ALOI, SEBASTIAN ALOI, a/k/a "Buster Aloi", JOHN DIOGUARDI, a/k/a "Johnny Dio", RALPH LOMBARDO, PASQUALE FUSCO, a/k/a "Checko Brown", JOHN SAVINO, EDMOND GRAIFER, ANDREW G. NELSON, JR., GERALD E. MILLER, SANDFORD L. PRICE, ARTHUR FERDINAND, J. JACK GANEK, MURRAY A. HANDLER, GILBER C. DRAGANI, DONALD K. FISHER, LOUIS NOVA, and GARY FREDRICKS, unlawfully, wilfully and knowingly did use and cause to be used the means and instruments of transportation and communications in interstate commerce and the mails pursuant to and in furtherance of the scheme alleged in paragraph 1 of these counts as hereinafter set forth.

Count	Date	Addressee	Matter
2	August 6, 1970	Marion T. Mulligan 306 East Mosholu Pkway. South Bronx, New York	Confirmation of purchase of 1,000 shares of AYSL stock, stamped "paid"
3	July 30, 1970	John F. Wagner 24 Glenn Court East Rutherford N.J.	Confirmation of purchase of 500 shares of AYSL stocks, stamped "paid"

Count	Date	Addressee	Matter
4	July 30, 1970	Maria Silva Farinhas c/f Carlos O. Farinhas 82 Jefferson Street Newark, N.J.	Confirmation of purchase of 300 shares of AYSL stock stamped "paid".
5	July 30, 1970	Donald J. Basto 818 Linden Lane Brielle, N.J.	Confirmation of purchase of 700 shares of AYSL stock, stamped "paid"
6	July 30, 1970	Arthur Sardo 134 Ferry Street Newark, N.J.	Confirmation of purchase of 200 shares of AYSL stock, stamped "paid"
7	July 30, 1970	Arthur dePinho Sardo, 30 Komorn Street, Newark, N.J.	Confirmation of purchase of 1,100 shares of AYSL stock, stamped "paid"
8	July 30, 1970	Victor & Anna Favale 159 North Street Jersey City, N.J.	Confirmation of purchase of 700 shares of AYSL stock, stamped "paid"

(Title 15, United States Code, Sections 77q and 77x, Title 18, United States Code, Section 2.)

COUNTS NINE THROUGH TWELVE

The Grand Jury further charges:

From on or about the 1st day of June, 1969, up to and including the 31st day of January, 1971 in the Southern District of New York and elsewhere, the defendants hereinafter named in these Counts, unlawfully, wilfully and knowingly did devise a scheme and artifice to defraud banks, brokerage

houses and purchasers of common stock of AYSL, and to obtain money and property from said persons by means of wire communication in interstate commerce, writings, signs, signals and sounds for the purpose of executing said scheme and artifice.

2. The allegations contained in paragraph 19 of this indictment are repeated and realleged as though fully set forth herein as constituting and describing the means by which the defendants committed the offense charged in paragraph 1 of these Counts.

3. On or about the dates hereinafter set forth, in Counts Nine through Twelve in the Southern District of New York and elsewhere, the defendants hereinafter named in these Counts unlawfully, wilfully and knowingly did transmit and cause to be transmitted by means of wire communication in interstate commerce, writings, signs, sigsls (sic) and sounds as hereinafter set forth.

COUNT	DEFENDANTS	DATE	WIRE COMMUNICATION
9	SEBASTIAN ALOI JOHN DIOGUARDI RALPH LOMBARDO SANDFORD L. PRICE ARTHUR FERDINAND J. JACK GANEK MURRAY A. HANDLER EDMOND GRAIFER	May, 1970	Telephone communication between JOHN DIOGUARDI in New York City and SEBASTIAN ALOI in Florida

COUNT	DEFENDANTS	DATE	WIRE COMMUNICATION
10	VINCENT ALOI SEBASTIAN ALOI JOHN DIOGUARDI RALPH LOMBARDO PASQUALE FUSCO JOHN J. SAVINO SANFORD L. PRICE (sic) ARTHUR FERDINAND J. JACK GANEK MURRAY A. HANDLER EDMOND GRAIFER	June, 1970	Telephone communication between SEBASTIAN ALOI in Florida and VINCENT ALOI in 6 Maurice Lane Suffern, New York
11	VINCENT ALOI SEBASTIAN ALOI JOHN DIOGUARDI RALPH LOMBARDO PASQUALE FUSCO JOHN J. SAVINO SANDFORD L. PRICE ARTHUR FERDINAND J. JACK GANEK MURRAY A. HANDLER EDMOND GRAIFER	June, 1970	Telephone communication between JOHN DIOGUARDI in New York and SEBASTIAN ALOI in Florida
12	GILBERT C. DRAGANI DONALD K. FISHER LOUIS NOVA GARY FREDRICKS	August 17, 1970	Telephone communication between Larry Levinson at Wanderoa & Co. (sic) and LOUIS NOVA at TDA

(Title 18, United States Code, Sections 1343 and 2).

COUNTS THIRTEEN THROUGH SEVENTEEN

The Grand Jury further charges:

1. From on or about the 1st day of June, 1969, up to and including the 31st day of January, 1971, in the Southern District of New York and elsewhere, the defendants VINCENT

ALOI, SEBASTIAN ALOI, a/k/a "Buster Aloi", JOHN DIOGUARDI, a/k/a "Johnny Dio", RALPH LOMBARDO, PASQUALE FUSCO, a/k/a "Checko Brown", JOHN J. SAVINO, EDMOND GRAIFER, ANDREW G. NELSON, JR., GERALD E. MILLER, SANDFORD L. PRICE, ARTHUR FERDINAND, J. JACK GANEK, MURRAY A. HANDLER, GILBERT C. DRAGANI, DONALD K. FISHER, LOUIS NOVA, and GARY FREDRICKS, unlawfully, wilfully and knowingly did devise a scheme and artifice to defraud banks, brokerage houses and purchasers of common stock of AYSL and to obtain money and property from said bank, brokerage houses and purchasers of common stock of AYSL by means of false and fraudulent pretenses, representations and promises and for the purpose of executing said scheme and artifice to defraud and attempting to do so, did place and cause to be placed in post offices and authorized depositories for mail matter, and did cause to be delivered by mail according to the direction thereon certain matter to be sent and delivered by the Post Office Department.

2. The allegations contained in paragraph 19 of this indictment are repreated (sic) and realleged as though fully set forth herein as constituting and describing the means by which the defendants committed the offenses charged in paragraph 1 of these Counts.

3. On or about the dates hereinafter set forth in Counts Thirteen through Seventeen in the Southern District of New York and elsewhere, the defendants VINCENT ALOI, SEBASTIAN ALOI, a/k/a "Buster Aloi", JOHN DIOGUARDI, a/k/a "Johnny Dio", RALPH LOMBARDO, PASQUALE FUSCO, a/k/a "Checko Brown", JOHN J. SAVINO, EDMOND GRAIFER, ANDREW G. NELSON, JR., GERALD E. MILLER, SANDFOR L. PRICE, ARTHUR FERDINAND, J. JACK GANEK, MURRAY A. HANDLER, GILBERT C. DRAGANI, DONALD K. FISHER, LOUIS NOVA and GARY FREDRICKS, unlawfully, wilfully and knowingly did cause to be delivered by mail according to the direction thereon the matter hereinafter set forth:

COUNT	DATE	ADDRESSEE	MATTER
13	July 30, 1970	Francis R. Murray 200 Oakwood Avenue Kearney, N.J.	Confirmation of purchase of 200 shares of AYSL stock, stamped "paid"
14	July 30, 1970	Frances Laudadio 790 Dexon Street Kearney, N.J.	Confirmation of purchase of 700 shares of AYSL stock, stamped "paid"
15	July 30, 1970	Michael Irene 430 Abington Avenue Bloomfield, N.J.	Confirmation of purchase of 200 shares of AYSL stock, stamped "paid"
16	July 30, 1970	A. Farishian 205 Overlook Avenue Belleville, N.J.	Confirmation of purchase of 500 shares of AYSL stock, stamped "paid"

COUNT	DATE	ADDRESSEE	MATTER
17	July 30, 1970	James Yacenda 181 Belleville Avenue Bloomfield, N.J.	Confirmation of purchase of 500 shares of AYSL stock, stamped "paid"

(Title 18, United States Code, Sections 1341 and 2).

COUNT EIGHTEEN

The Grand Jury further charges:

From on or about the 1st day of June, 1969, up to and including the 31st day of January, 1971, in the Southern District of New York and elsewhere, the defendants VINCENT ALOI, SEBASTIAN ALOI, a/k/a "Buster Aloi", JOHN DIOGUARDI, a/k/a "Johnny Dio", RALPH LOMBARDO, PASQUALE FUSCO, a/k/a "Checko Brown", JOHN J. SAVINO, EDMOND GRAIFER, ANDREW G. NELSON, JR., GERALD E. MILLER, SANDFORD L. PRICE, ARTHUR FERDINAND, J. JACK GANEK, MURRAY A. HANDLER, GILBERG C. DRAGANI, DONALD K. FISHER, LOUIS NOVA, and GARY FREDRICKS, unlawfully, wilfully, and knowingly used and caused to be used an offering circular, to wit, an offering circular for the sale of securities of AYSL, which was required to be used and filed by the Securities and Exchange Commission, pursuant to Title 15, United States Code, Section 77s(a) and Rule 256(e) (17 C.F.R. Section 230,256(e)) and Form 1A, Schedule I as promulgated thereunder, which was false and

misleading in light of the circumstances then existing, to wit, the said offering circular did not disclose the following material facts:

a. That $10,000 from the proceeds of the AYSL offering would be used to pay one-half of the fee of Tech-Ec for service as management consultants to AYSL in the offering.

b. That TDA was underwritier in name only and did not intend to make efforts to obtain purchasers for the stock.

c. That Hellerman was in fact the undisclosed underwritier as that term is defined in Section 2(11) of the Securities Act of 1933.

d. That $45,000 from the proceeds of the offering would be paid directly to Hellerman and indirectly to the defendants VINCENT ALOI, LOMBARDO, FUSCO, SAVINO and DIOGUARDI.

(Title 15, United States Code, Sections 77s, 77x and 17 C.F.R. Section 230.256; Title 18, United States Code, Section 2).

COUNT NINETEEN

The Grand Jury further charges:

1. From on or about the 1st day of July, 1969, up to and including the 31st day of January, 1971, in the Southern

District of New York and elsewhere, TDA Securities, Hempstead, New York, was a broker or dealer registered pursuant to Section 15 of the Securities Exchange Action of 1934, as amended, and therefore was required by law [17 C.F.R. 240-17a-3(a)] to make and keep accurate and current books and records, relating to its business, to wit, ledgers and other records reflecting securities bought and sold and cash received and disbursed.

2. At all times relevant herein, the defendant GILBERT DRAGANI, was the President and Treasurer of TDA, the defendant DONALD FISHER was the Secretary of TDA and the defendant LOUIS NOVA was Sales Manager and Trader at TDA.

3. From on or about the 8th day of April, 1970, up to and including the 31st day of January, 1971, the defendants GILBERT C. DRAGANI, DONALD K. FISHER, LOUIS NOVA, ARTHUR FERDINAND, EDMOND GRAIFER, ANDREW G. NELSON, JR., and GERALD MILLER unlawfully, wilfully and knowingly did falsely make and keep records reflecting the dates of transactions in AYSL stock, to wit, transactions that took place after July 7, 1970, were recorded on the ledgers of TDA, on the customers' accounts, and on the customers' confirmations of purchase as having taken place on or prior to July 7, 1970, when in

truth and in fact, as the defendants DRAGANI, FISHER and NOVA, GRAIFER, NELSON and MILLER then and there knew, the aforesaid transactions had taken place after July 7, 1970.

(Title 15, United States Code, Sections 78q(a) and 78ff and 17 C.F.R. Section 240.17a 3; Title 18 United States Code, Section 2)

COUNTS TWENTY THROUGH THIRTY SIX

The Grand Jury further charges:

On or about the dates hereinafter set forth in Counts Twenty through Thirty-Six in the Southern District of New York and elsewhere the defendants, VINCENT ALOI, SEBASTIAN ALOI, a/k/a "Buster Aloi", JOHN DIOGUARDI, a/k/a "Johnny Dio", RALPH LOMBARDO, PASQUALE FUSCO, a/k/a "Checko Brown", JOHN J. SAVINO, EDMOND GRAIFER, SANDFORD L. PRICE, ARTHUR FERDINAND, J. JACK GANEK, MURRAY A. HANDLER, GILBERT C. DRAGANI, DONALD K. FISHER, LOUIS NOVA, ANDREW G. NELSON, Jr., GERALD E. MILLER and GARY FREDRICKS, unlawfully, wilfully and knowingly, directly and indirectly made use of the mails and caused the mails to be used to sell a security, to wit, common stock of AYSL, through the use and medium of a prospectus and otherwise, to wit, an offering circular, in that said defendants did use the mails and cause the mails to be used to send from the brokerage firms listed below to the

addressees listed below, confirmations covering purchases of said security in the amounts hereinafter set forth, no registration statement as to said security being in effect with the Securities and Exchange Commission.

Count	Date	Name and Address of Defrauded Brokerage Firms, Mailing Confirmations.	Matter
20	8/12/70	Shearson Hammill & Co. 14 Wall Street New York, N.Y.	Confirmation of sale of 1500 shares of AYSL stock by Joseph Bald, 739 Elvira Avenue, Far Rockaway, N.Y.
21	8/12/70	Shearson Hammill & Co. 14 Wall Street New York, N.Y.	Confirmation of sale of 1000 shares of AYSL stock by Joseph Bald, 739 Elvira Avenue, Far Rockaway, N.Y.
22		Shearson Hammill & Co. 14 Wall Street New York, N.Y.	Confirmation of sale of 1000 shares of AYSL stock by Joseph Bald, 739 Elvira Avenue, Far Rockaway, N.Y.
23		Shearson Hammill & Co. 14 Wall Street New York, N.Y.	Confirmation of sale of 2,500 shares of AYSL stock by Joseph Bald, 739 Elvira Avenue, Far Rockaway, N.Y.
24		Halle & Stieglitz & Co. 52 Wall Street New York, N.Y.	Confirmation of sale of 2,500 shares of AYSL stock by Joseph Bald, 739 Elvira Avenue, Far Rockaway, N.Y.

Count	Date	Name and Address of Defrauded Brokerage Firms, Mailing Confirmation	Matter
25	8/13/70	Halle & Stieglitz & Co. 52 Wall Street New York, N.Y.	Confirmation of sale of 2,500 shares of AYSL stock by Joseph Bald, 739 Elvira Avenue, Far Rockaway, N.Y.
26	8/12/70	Weis, Voison & Co., Inc. 111 Broadway New York, New York	Confirmation of sale of 2,500 shares of AYSL stock by Joseph Bald, 739 Elvira Avenue, Far Rockaway, N.Y.
27	8/12/70	Evans & Co. A/C of Kern Securities 111 Broadway New York, New York	Confirmation of sale of 1,000 shares of AYSL stock by Joseph Bald, 739 Elvira Avenue, Far Rockaway, N.Y.
28	8/13/70	Evans & Co. A/C of Kern Securities 111 Broadway New York, New York	Confirmation of sale of 1,000 shares of AYSL stock by Joseph Bald, 739 Elvira Avenue, Far Rockaway, New York
29	8/12/70	Evans & Co. A/C of Kern Securities 111 Broadway New York, New York	Confirmation of sale of 1,500 shares of AYSL stock by Joseph Bald, 739 Elvira Avenue, Far Rockaway, New York
30	8/12/70	Evans & Co. A/C of Kern Securities 111 Broadway New York, New York	Confirmation of sale of 500 shares of AYSL stock by Joseph Bald, 739 Elvira Avenue, Far Rockaway, New York

Count	Date	Name and Address of Defrauded Brokerage Firms, Mailing Confirmations	Matter
31	8/12/70	Evans & Co. A/C of Kern Securities 111 Broadway New York, New York	Confirmation of sale of 1,000 shares of AYSL stock by Joseph Bald, 739 Elvira Avenue, Far Rockaway, N.Y.
32	8/31/70	Evans & Co. A/C of Kern Securities 111 Broadway New York, New York	Confirmation of sale of 1,000 shares of AYSL stock by Joseph Bald, 739 Elvira Avenue, Far Rockaway, N.Y.
33	8/13/70	C.B. Richard, Ellis & Co. 5 Hanover Square New York, N.Y.	Confirmation of sale of 2,00 shares of AYSL stock by Stephen Schustek, 63-09 108th Street, Forest Hills, N.Y.
34	8/12/70	C.B. Richard, Ellis & Co. 5 Hanover Square New York, N.Y.	Confirmation of sale of 4,900 shares of AYSL stock by Stephen Schustek, 63-09 108th Street, Forest Hills, N.Y.
35	8/13/70	Loeb, Rhoades & Co. A/C of Jaffee & Co. 50 Broadway New York, N.Y.	Confirmation of sale of 1,000 shares of AYSL stock by Stephen Schustak, 63-09 108th Street, Forest Hills, N.Y.
36	8/13/70	Loeb, Rhoades & Co. A/C of Jaffee & Co. 50 Broadway New York, N.Y.	Confirmation of sale of 4,000 shares of AYSL stock by Stephen Schustek, 63-09 108th Street, Forest Hills, N.Y.

(Title 15, United States Code, Sections 77c, 77n and 77x; Title 18, United States Code, Section 2.)

COUNT THIRTY-SEVEN

The Grand Jury further charges:

1. From on or about the 1st day of September, 1970, up to and including the 7th day of May, 1971, the United States Securities and Exchange Commission, in the Southern District of New York, did conduct an investigation into possible violations of United States laws prohibiting fraud in the sale and purchase of securities and into the role of Michael Hellerman and various other individuals, including the defendant GERALD MILLER, in the fraudulent offer of AYSL shares to the public and the manipulation of the price of the aforesaid securities in the over-the-counter market.

2. It was material to the aforesaid investigation to ascertain what activities were being conducted by Michael Hellerman, the defendant GERALD MILLER and others, in connection with the purchase and sale of AYSL securities, whether said individuals were selling AYSL securities through nominees, what the true disposition of the proceeds of the aforesaid sales were, and further, in this regard, what the true circumstances were that caused the defendant GERALD MILLER to come into the possession of a check payable to one Seymour Sadev in the amount of $5,350, which check constituted the

proceeds of the sale of AYSL stock.

3. On or about the 10th day of November, 1970 in the Southern District of New York, the defendant GERALD MILLER having taken an oath before a competent officer, and person, to wit, Franklyn D. Ormsten, a designated officer to take testimony pursuant to Section 19(b) of the Securities Act of 1933 and Section 21(b) of the Securities Act of 1934, in a case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, and depose truly, did unlawfully, wilfully and knowingly and contrary to such oath state a material matter which he did not believe to be true, as follows:

"Q. Mr. Miller, do you know an individual named Seymour Sadev, S-A-D-E-V?

A. I know of him.

Q. Can you state who he is?

A. I don't know.

Q. How do you know of him?

A. I received a check for Tech-Ec, which I deposited in my account.

Q. Right.

A. Cleared through my account. The check had been made

out to Mr. Sadev, and subsequently, he made a claim that the signature had been forged on it.

Q. Right. And is that the only way in which you know him?

A. Yes, it is.

Q. You received the check, you say, from Tech-Ec.

A. For Tech-Ec, a messenger brought it up for Tech-Ec. Andy was away at the time, as I recall.

Q. And was Mr. Sadev making a payment to you?

A. I don't know, I had instructions from Nelson as to what use to put the money to. I cleared it through my account and did that.

****

Q. All right. I show you a copy of a check made payable to Saymour Sadev, drawn on the Trust Company of New Jersey, and the back has two endorsements. One is Seymour Sadev and one is Gerald Miller. I ask you if that's your signature which appears as a second endorsement?

A. Yest, it is.

Q. Who gave you this check, Mr. Miller?

A. It was delivered by messenger.

Q. Do you know who the messenger was?

A. No, I don't

Q. You say that Andy Nelson told you that this was monies payable to Tech-Ec? Is that right?

A. All I know is that Andy told me that somebody was going to bring up some money, and I was supposed to apply it to pay off a specific obligation of Tech-Ec.

****

Q. Did you get advance notice that you would receive this check?

A. Nelson told me that someone was going to bring up some money, mentioned that he was going to bring up some money and what I was to do with it. I think he was out in what do you call it, Denver, at the time. He was out of town, I remember.

****

Q. But what was the reason for someone submitting this check to Tech-Ec?

A. I haven't the slightest idea. I know very little about Tech-Ec's financial aspects."

(Title 18, United States Code, Section 1621)

COUNT THIRTY-EIGHT

The Grand Jury further charges:

1. From on or about the 1st day of January, 1970 up to and including the 5th day of August, 1970, in the Southern District of New York, the defendant RALPH LOMBARDO, unlawfully, wilfully and knowingly did make an extortionate extension of credit, to wit, the making and renewal of a loan in the amount of $10,000 to Michael Hellerman at the rate of interest $125 per week.

2. From on or about the 1st day of January, 1970, up to and including the 5th day of August, 1970, in the Southern District of New York SEBASTIAN ALOI, a/k/a "Buster Aloi" and JOHN DIOGUARDI, a/k/a "Johnny Dio", the defendants, unlawfully, wilfully and knowingly did aid, abet, counsel, induce and procure the commission of the crime in paragraph 1 above.

(Title 18, United States Code, Sections 892 and 2)

PAUL J. CURRAN
United States Attorney

FOREMAN

At-Your-Service Leasing Corp.

(A New Jersey Corp.)

100,000 Shares
Common Stock (Par Value $.01)
$3.00 Per Share

THESE SHARES INVOLVE A HIGH DEGREE OF RISK

The Company is a recently organized corporation and has only recently begun operations. The public offering price of the Common Stock offered hereby has been determined arbitrarily. Prior to this Offering, there has been no market for the Company's securities. There is no assurance that such a market will develop.

THESE SECURITIES ARE OFFERED PURSUANT TO AN EXEMPTION FROM REGISTRATION WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION. THE COMMISSION DOES NOT PASS UPON THE MERITS OF ANY SECURITIES NOR DOES IT PASS UPON THE ACCURACY OR COMPLETENESS OF ANY OFFERING CIRCULAR OR OTHER SELLING LITERATURE.

	Price to Public		Underwriting Commissions and Expenses (1) (2) (3)		Proceeds to Company (3)	
	Min.	Max.	Min.	Max.	Min.	Max.
Per Share	$3.00	$3.00	$.40	$.40	$2.60	$2.60
Total	$150,000	$300,000	$20,000	$40,000	$130,000	$260,000

(1) Includes $30,000 ($.20 per share) cash commission and $10,000 ($.10 per share) cash reimbursement for non accountable expenses of the Underwriter. The Underwriter has agreed to use its best efforts to sell the shares for a period of sixty days from the date hereof (which period may be extended to 90 days).

(2) Does not reflect additional filing, printing, legal, accounting and miscellaneous expenses relating to this offering of approximately $20,000 ($.20 per share).

(3) The Shares will be offered by the Underwriter on a best efforts basis, minimum 50,000 shares. If at least 50,000 shares offered are not sold within 60 days of the date of this Offering Circular (or 90 days if extended), the offering will be withdrawn and all monies collected will be returned promptly to the subscribers without interest. Proceeds from shares sold if in excess of the 50,000 shares minimum will be accepted by the Company and those shares not sold will remain authorized but unissued. (See "Underwriting", page 11). All monies will be deposited in a special account entitled "TDA Securities, Inc. in Trust for At-Your-Service Leasing Corp., or its Subscribers as their interests may appear", with Security National Bank, Hempstead, New York.

This Offering Involves:

(a) Special risks concerning the Company (See "Speculative Factors", Page 3);

(b) Immediate substantial dilution to public investors (see "Dilution" Page 4);

(c) Significant additional Underwriting compensation through the purchase by the Underwriter of five-year warrants to purchase 10,000 shares of Common Stock for $.001 per share exercisable immediately at $3.30 per share but are not transferable or assignable for a period of one year from the date of this Offering Circular. For specific information concerning these factors see "Underwriting", Page 11 and "Description of Capital Stock and Warrants", page 10.

The Shares of Common Stock are being offered by the Underwriter named herein, subject to prior sale, when, as and if issued, received and accepted by them and subject to the approval of counsel and certain other conditions. The Underwriter reserves the right to withdraw, cancel or modify such offer and to reject orders in whole or in part.

TDA SECURITIES, INC.
70 North Franklin Street
Hempstead, New York 11550

The date of this Offering Circular is April 8, 1970.

TABLE OF CONTENTS

	Page
Introductory Statement	3
The Company	3
Risk Factors to be Considered	3
Use of Proceeds	5
Capitalization and Indebtedness	5
Business	6
Management	7
Remuneration	8
Employees	8
Transactions with Management	8
Loans	9
Description of Common Stock and Warrants	10
Dividends	10
Cumulative Voting	10
Warrants	10
Annual Reports	11
Transfer Agent	11
Underwriting	11
Litigation	11
Legal Opinions	11
Experts	12
Report of Certified Public Accountants	13
Balance Sheet	14
Statement of Operations	16
Statement of Accumulated Deficit	17
Notes to Financial Statements	18

No dealer, salesman or any other person has been authorized to give any information or to make any representations other than those contained in the Offering Circular and, if given or made, such information or representations must not be relied upon as having been authorized by the Company. If there are any material changes in the Company's affairs, appropriate amendments to the Offering Circular will be made.

INTRODUCTORY STATEMENT

The Company:

At-Your-Service Leasing Corp. (The Company) has, since 1965 been engaged in the auto leasing business, specifically in long term auto leasing of predominantly higher priced automoblies. On September 30, 1969, the Company was the registered owner of 118 vehicles, of which 102 were leased by it to customers. In addition, at that date the Company had 20 vehicles on order with signed leases and financing approved.

The Company was incorporated in the State of New Jersey in December, 1965, under the name of Williams Car Leasing Corp. In July the name was changed to At-Your-Service Car Leasing Corp. and to its present name in September, 1969.

The principal office of the Company is located at 449 60th Street, West New York, New Jersey.

RISK FACTORS TO BE CONSIDERED

Prospective investors herein should consider carefully, among other factors, the following matters:

1. There is no established market for the Company's shares, and there is no assurance that any such market will develop at a future date. The offering price was arbitrarily established by negotiation between the Company and the Underwriter.

2. The Company is engaged in a highly competitive business. Many of the Company's competitors are larger, better financed and have been operating for a longer period of time than the Company.

3. No assurance can be made that the share offered hereby will be sold and the proceeds realized, since there is no firm commitment for the purchase of such shares. None of the shares offered hereby will be sold unless at least 50,000 are sold. If only the minimum number of shares are sold, investors funds may be tied up in an enterprise that is unable to accomplish its basic objectives.

4. The Company has never paid dividends on any of its shares and the Company does not anticipate the payment of dividends in the foreseeable future.

5. There is no cumulative voting, with the result that the holders of more than 50% of the outstanding stock will be able to elect all of the directors and the holders of the remaining stock will be unable to elect any directors.

6. The Underwriter is a comparatively new entry into the field and relatively inexperienced as a principal Underwriter.

7. The Company has agreed to issue to the Underwriter warrants to purchase 10,000 shares of the Common Stock at an exercisable price of $3.30 per share. The warrants may be exercised during the period of five years commencing one year after the date of issuance. The date of issuance will be the closing date defined in the Underwriting Agreement. During the life of the warrants, the holders will have the opportunity to profit from a rise in the market price of the Company's Common Stock with a resulting dilution in the value of the remaining shares held by the Company's shareholders, by exercise of their warrants. During the life of the warrants, the Company may be deprived of favorable opportunities to procure additional equity capital,

if it should be needed for the purposes of the business, and the holders of the warrants may be expected to exercise them at a time when the Company would, by sale of a new offering, on terms more favorable to the Company than those provided in the warrants.

8. The Company presently is able to obtain financing equal to 100% of the purchase price of each automobile from banks. The Company will continually require financing to purchase automobiles and there is no assurance that such financing will be available, in the amounts or on terms favorable to the Company.

9. The Company will be organized so that the present shareholders will own 200,000 shares or 66⅔% of the Common Stock to be outstanding after the offering, for which they will have contributed net assets with a deficit value of $92,544 or approximately minus $.46 per share. The public, on the other hand, will own 100,000 shares or 33⅓% of the Common Stock to be outstanding after the offering, which they will have paid $300,000 or $3.00 per share.

10. As of October 31, 1969, the Common Stock of the Company had a negative book value of $92,544 or minus $.46 per share. If all 100,000 shares being offered are sold, the aggregate increase in the present stockholders' equity will amount to $147,446 while the aggregate decrease in the public's equity will amount to $152,554. The 200,000 shares held by the present shareholders will increase in book value to $98,000 or $.49 per share and that the public's 100,000 shares will decrease to $49,000 or $.49 per share. If only the minimum 50,000 shares are sold to the public, the shares held by the present stockholders will increase in book value to $.06 per share without cost to them while the book value of the public's share will decrease from the offering price of $3.00 per share to $.06 per share.

11. The Company has suffered losses since its inception. It presently has an accumulated retained earnings deficit of over $100,000 and that as at October 31, 1969 the Company had a capital deficit of $92,544. In addition, the issuer must repay a bank loan of approximately $340,000 within the next twelve months. This repayment is expected to be covered by the payments received on lease agreements, but there can be no assurance of this.

12. The Company is able to maintain minimized losses on the leasing of automobiles only because it is able to purchase the automobiles at very favorable prices because it has been designated as a fleet purchaser. This designation is made annually and can be continued only if a minimum number of automobiles are purchased. There can be no assurance that the Company will be able to retain its designation as a fleet purchaser.

13. The proceeds of the offering will be used to repay existing loan balances at institutions, and to pay officers salaries. This means that the proceeds of the offering will not be sufficient to enable the issuer to purchase any additional automobiles except insofar as institutions may be more willing to loan money to the issuer because it has fewer loans outstanding.

14. The Company will have only one full-time salaried officer, the Company's Secretary, Mr. Edmond Graifer.

15. The Company presently pays no rental for the premises it occupys as it maintains offices in space occupied by Price, Ferdinand, Ganek and Handler, Certified Public Accountants, all of whom are stockholders, officers and directors of the Company. There can be no assurance that these facilities will continue to remain available for the Company's use on a no charge basis or that they will remain adequate for the Company's purposes.

16. On September 12, 1969 the Company filed with the State of New Jersey a Certificate amending its Certificate of Incorporation in which the authorized capital shares were increased from 500 shares of Class B, no par value voting stock (of which 250 were issued and outstand-

ing) to 500,000 shares of Common Stock with a par value of $.01 per share. At the same time the 2,000 shares of Class A, no par, non-voting stock which had previously been authorized (of which none were issued or outstanding) were eliminated. Upon such amendment, the 250 shares of Class B stock which were exchanged for 200,000 shares of the new Common Stock.

17. As of the date of this offering, the Company has current assets of $358,514 and current liabilities of $515,946 or a net working capital deficiency of $157,432 and is thus technically insolvent. The Company also has a total capital deficiency of $92,544.

USE OF PROCEEDS

The net proceeds to be realized by the Company from the sale of the shares offered hereby, after deduction of commissions and expenses, are estimated to be approximately $240,000 if all of the shares offered hereby are sold. The Company intends to apply such proceeds approximately as follows:

$114,500 for the repayment of unsecured demand notes bearing 10% interest which are held by persons unrelated to the Company.

$100,000 for deposit with financial institutions as compensating balances in connection with loans made from those institutions.

The balance of approximately $25,500 will be added to general working capital and used, among other things, to defray officer and other salaries and general expenses until such time, if ever, as the Company is self sustaining.

In the event that only the minimum of 50,000 shares is sold the Company will receive approximately $110,000. In such case the Company intends to apply approximately $50,000 to the reduction of the above notes and approximately $60,000 to deposits for compensating balances. In such case the Company will be severely hampered in its activities.

CAPITALIZATION AND INDEBTEDNESS

The following table sets forth the capitalization of the Company as of October 31, 1969 and as adjusted to give effect to the issuance of the 100,000 shares of Common Stock offered hereby and the application of proceeds therefrom. This table should be read in conjunction with the Balance Sheet and related notes included elsewhere in this Offering Circular.

Title of Class	Outstanding October 31, 1969	To be Outstanding
Capital Stock:		
Common Stock $.01 par value (authorized 500,000 shares) (2)	200,000 Shares	300,000 Shares(3)
Indebtedness(1):		
Notes payable leased automobiles — Interest rates range from 8½% to 10% due in various installments through 1971	$609,336	$609,336
Notes payable — others — 10% interest payable on demand	$114,500	-0-
Notes payable Officers — Non-interest bearing payable on demand	$ 27,150	$ 27,150
Security Deposits	$ 23,449	$ 23,449

(1) See note 2 to Financial Statement for further information concerning indebtedness.

(2) As adjusted to give retroactive effect to the September 12, 1969 recapitalization and stock split. See Note 4 to Financial Statements.

(3) Exclusive of a maximum of 10,000 shares reserved for issuance upon exercise of warrants to be granted to the Underwriter in connection with this offering. See "Stock Warrants" elsewhere in this offering circular.

BUSINESS

The Company has from its inception been engaged in the leasing of automobiles. There are various types of rentals which are used; Maintenance leases, Non-Service leases, and Self Insured leases.

In case of automobiles under maintenance leases, the Company, in return for a fixed monthly rental, recommends the type of vehicle, purchases it, arranges and pays for preventive maintenance and repairs through local new car dealers and arranges for licenses and insurance. Approximately 5% of the total lease rental results from Maintenance leases.

Under a Non-Service lease, the lessee makes a fixed periodic rental payment but assumes the responsibility for maintenance and service. Approximately 65% of the total lease rental results from non-service leases.

Under self-insured leasing the customer must obtain his own insurance which must be the equivalent to that which the Company would supply under the ordinary lease. Approximately 30% of the total lease rental results from self-insured leases.

The Company is engaged in the leasing of passenger cars only. Most of its leases provide for a term of 26 months. None of its leases is shorter than 12 months.

All the cars leased are new cars, the majority of which are manufactured by General Motors. However, the Company also purchases cars from authorized dealers of other manufacturers. In most instances, the cost to the Company of the cars that it purchases is close to the dealer's cost from the manufacturers. The purchase on this basis is made possible due to the designation of the Company as a fleet purchaser. Such designation is made annually and is based upon the purchase of a minimum number of automobiles. It is subject to annual review and may be cancelled.

The lease terms provide for monthly payments by the lessee to the Company of an amount which the Company feels reflects its expense in the operation of its business, depreciation of the vehicle and a profit. The car is returned to the Company upon the expiration of the lease term. The Company thereupon sells the car in the used car market. It should be noted that the Company has to predict the potential resale value of a vehicle approximately two years before the resale date and, in the event that the resale price realized by the Company is less than the unamortized balance of the purchase price of the automobile in question, the Company could suffer a loss on the transaction.

The Company arranges financing for each of the cars which it purchases. The Company does not purchase a car until it has a lessee whose credit has been approved who will lease the vehicle.

Currently the Company is able to obtain financing equal to 100% of the purchase price of each automobile from banks. The financing arrangements are correlated to the lease term. The Company makes monthly installment payments in the amount so that the balance of the total loan at the end of the lease will be approximately 30% of the purchase price of the automobile. There can be no guarantee that these terms will continue to be available to the Company. The availability of money for financing and fluctuations in interest rates could have an adverse effect on the Company's operations and prospects.

Most of the Company's lessees reside in the New York City or Northern New Jersey Area. The bulk of the Company's present business results from referrals from present lessees, most of whom are professional men and business executives.

Facilities:

The Company maintains offices at 449 60th Street, West New York, New Jersey, for which no rent is paid. The present space is adequiate and it is anticipated that it will continue to be so; if the space proves inadequate, additional facilities will have to be rented.

MANAGEMENT

The names and residence addresses of the officers and directors of the Company, the number of shares which they presently own, and the percentage of the Common Stock to be outstanding which they will own following this offering are as follows:

Name and Residence Address	Position	No. of Shares	Percentage of Class
Sandford L. Price 2000 Linwood Ave. Fort Lee, N. J.	President and Director	25,000	12½%
Arthur Ferdinand 343 South Union Ave. Cranford, N. J.	Vice Pres. and Director	25,000	12½%
Edmond Graifer 2000 Linwood Ave. Fort Lee, N. J.	Secretary and Director	100,000	50 %
J. Jack Ganek 9 Lenhome Drive Cranford, N. J.	Treasurer and Director	25,000	12½%
Murray A. Handler 32 Roberts Court Tenafly, N. J.	Vice Pres. and Director	25,000	12½%

Mr. Arthur Ferdinand, a Certified Public Accountant, has been a partner in the firm of Price, Ferdinand & Company, since 1954, which firm is now known as Price, Ferdinand, Ganek & Handler of West New York, New Jersey. Mr. Ferdinand is a founder and shareholder of the Company and has been engaged as the Company's accountant since its origin. Mr. Ferdinand will devote approximately 5% of his time to the Company.

Mr. Edmond Graifer has been the General Manager of At-Your-Service Leasing Corp. since 1966. In 1967 Mr. Graifer became a stockholder in the firm. Prior to that he was a partner in Amory Lighting. Mr. Graifer will devote his full time to the Company.

Mr. Murray A. Handler, a Certified Public Accountant, has been engaged in the practice of public accountancy since 1954. From 1954 to 1967, he practiced on his own account. From 1967 to the present Mr. Handler has been a partner in the firm of Price, Ferdinand, Ganek & Handler. Mr. Handler is a shareholder of the Company. Mr. Handler will devote approximately 5% of his time to the Company.

Mr. J. Jack Ganek, a Certified Public Accountant, has been a partner in Price, Ferdinand, Ganek & Handler and its predecessor since 1964. Mr. Ganek is a shareholder in the Company. Mr. Ganek will devote approximately 5% of his time to the Company.

Mr. Sanford L. Price, a Certified Public Accountant, has been a partner in the firm of Price, Ferdinand & Company since 1954, which firm is now known as Price, Ferdinand, Ganek & Handler. Mr. Price has been an officer and shareholder of the Company since 1966. Mr. Price will devote approximately 5% of his time to the Company.

Remuneration:

No salaries were paid to any officer of the Company during the last fiscal year. Mr. Graifer will be the only salaried officer of the Company and will receive $12,500 per year.

Employees:

The Company presently has three full time employees including Mr. Graifer who is in an executive capacity. In addition, there is a Service Manager and Secretary-Bookkeeper.

TRANSACTIONS WITH MANAGEMENT

On February 1, 1966 as promoters and personal guarantors to financial institutions, Arthur Ferdinand, Sanford L. Price and J. Jack Ganek received 41⅔ shares each of Common Stock, Morris Silver received 125 shares of Common Stock and Melvin Feld and Tobias Weitz each received 62½ shares of Common Stock. The total price paid by the promotors for the 375 shares of Common Stock issued was $5,000.

On February 1, 1966 Charles Williams received 125 shares of the common stock of the Company for his services as a promoter and personal guarantor to financial institutions. This stock was held in escrow pending the fulfillment of a verbal agreement that Mr. Williams would provide two years of management. At Mr. Williams' death in September 1966, having failed to comply with this agreement, the stock reverted to the Company and was cancelled.

In January 1968 Messrs. Ferdinand, Price and Ganek each transferred 10 5/12 shares of their issued Common Stock to Murray A. Handler.

On December 30, 1968 Messrs. Feld and Weitz each transferred the 62½ shares of their issued Common Stock to Edmond Graifer.

In January 1969 Mr. Silver surrendered the 125 shares of Common Stock which he held in exchange for a release as a personal guarantor and the said shares were returned.

On September 12, 1969 the Company filed with the State of New Jersey a Certificate amending its Certificate of Incorporation in which the authorized capital shares were increased from 500 shares of Class B, no par value voting stock (of which 250 were issued and outstanding) to 500,000 shares of Common Stock with a par value of $.01 per share. At the same time the 2,000 shares of Class A, no par, non-voting stock which had previously been authorized (of which none were issued or outstanding) were eliminated. Upon such amendment, the 250 shares of Class B stock were exchanged for 200,000 shares of the new Common Stock.

Loans:

Prior to December 1968, Messrs. Feld and Weitz had loaned the sum of $17,250 to the Company on a no interest, demand, basis. At the time they transferred their stock to Mr. Graifer and severed their connection with the Company. They accepted the sum of $11,595, against these loans and the balance of $5,655 was transferred to the Capital Account.

Between December 1968 and the present time, Mr. Edmond Graifer has made periodic loans to the Company totalling $39,550. These loans have been made on a non-interest bearing, demand, basis and repayments have been made when the Company was in a position to do so. It is the intention of the Company to continue such repayments when it has sufficient excess funds to do so. The balance due to Mr. Graifer as of October 31, 1969 was $27,150.

The Company presently pays no rental for the premises it occupys as it maintains offices in space occupied by Price, Ferdinand, Gauck and Handler, Certified Public Accountants, all of whom are stockholders, officers and directors of the Company. There can be no assurance that these facilities will continue to remain available for the Compainy's use in a no charge basis or that they will remain adequate for the Company's purposes.

DESCRIPTION OF COMMON STOCK AND WARRANTS

The Company has an authorized capital of 500,000 shares of Common Stock, with a par value of $.01 per share. Each holder of Common Stock is entitled to one vote for such share held, on all matters to be voted on by the stockholders, including the election of directors. Each share is entitled to equal dividends and to a pro rata share in the Company's net assets in the event of dissolution, liquidation or a winding up of the Company. In the opinion of counsel for the Company, all of the outstanding shares and the 100,000 shares to be issued are and will be fully paid and non-assessable. Such shares carry no conversion or preemptive rights to subscribe to additional shares or other securities.

Dividends:

The Company has never paid and does not anticipate paying dividends in the forseeable future since any earnings that may accrue will be utilized for the operation of its business and possible further expansion.

Cumulative Voting:

There is no cumulative voting, with the result that the holders of more than 50% of the outstanding stock will be able to elect all of the directors and the holders of the remaining stock will be unable to elect any directors.

Warrants:

Five year warrants to purchase an aggregate of 10,000 shares of Common Stock at $3.30 per share are to be acquired by the Underwriter for an aggregate consideration of $10.00. The Warrants are exercisable one year after the date of this Offering Circular and they, as well as any shares of Common Stock acquired upon exercise thereof, are not transferable for a period of one year from the date hereof. The holders of the warrants will have no voting, dividend or other rights as shareholders of the

Company until the warrants are exercised. The warrants will contain anti-dilution provisions designed to protect the holders against dilution through recapitalization, merger, consolidation, stock dividends and the issue of sale of Common Stock below the current exercise price of the warrants.

For the life of the warrants the holder thereof are given, at a nominal cost, the opportunity to profit from a rise in the market for the Company's Common Stock, with a resulting dilution in the interest of the Companys' other common stockholders. Furthermore, the terms on which the Company may obtain additional capital during the warrant period may be adversely affected. The holders of the warrants might be expected to exercise them at a time when the Company would, in all likelihood, be able to obtain any needed capital be a new offering of securities on terms more favorable than those provided for by the warrants.

The warrants provide that the Company will file, at its expense, upon request of the holders of 25% of the outstanding warrants, a Registration Statement or Notification under Regulation A covering the sale of such warrants or Common Stock acquired upon exercise thereof. If the warrants issued herewith are exercised in full, the number of shares of Common Stock outstanding would be increased by approximately 3%. The said warrants, when issued will be placed in escrow for a period of thirteen months.

Annual Reports:

The Company intends to furnish holders of its Common Stock with annual reports containing certified financial statements. The Company may furnish stockholders with uncertified semiannual financial statements.

Transfer Agent:

The Transfer Agent for the Common Shares is Community National Bank & Trust Company of New York, P.O. Box 222, Oakwood Shopping Center, Staten Island, New York 10306.

UNDERWRITING

The Underwriter has agreed upon the terms and conditions set forth in the Underwriting Agreement between the Company and the Underwriter, to use its best efforts to sell all 100,000 shares of Common Stock offered hereby. The offering is on a best efforts basis, minimum 50,000. If at least 50,000 shares are not sold within 60 days (or 90 days if extended) the offering will be withdrawn and all monies received from subscribers will be returned promptly without interest. The Underwriter will place all funds received from subscribers in a special account in the Security National Bank, Hempstead, N. Y. until at least 50,000 shares are sold.

The Company has agreed to indemnify the Underwriter against certain liabilities, including liabilities under the Securities Act of 1933, as amended.

The Company has been advised by the Underwriter that the shares offered hereby are being initially offered by the Underwriter for sale at the price set forth on the cover page hereof.

The Company has agreed to pay the Underwriter a $10,000 non-accountable expense allowance in connection with the offering and to sell to the Underwriter, at a price of 1 mil per warrant, warrants to purchase 10,000 shares of Common Stock at a price of $3.30 per share exercisable for a period terminating five years from the date of this Offering Circular. Warrants are on a pro rata basis; I

warrant for each 10 shares sold. Minimum non-accountable expense $6,500. $.10 per share will be paid to the Underwriter for all shares sold above 50,000 shares. The Company has agreed to bear all expenses of filing A Registration Statement or Notification under Regulation A, and any amendments thereto if required to permit the public offering of the warrants and Common Shares issuable upon exercise of said warrants purchased by the Underwriter. (See Cover Page and "Description of Common Stock and Warrants".)

The Company has agreed that the Underwriter may sell any or all of the shares offered hereby to selected dealers at the public offering price less a concession of $.12 per share; that the Underwriter and selected dealers may re-allow a concession of not over $.06 to dealers who are members of the NASD and that the Underwriter may sell any or all of the shares offered hereby less a concession of $.12 to foreign dealers who agree that in making sales in the United States they will abide by the rules of the NASD.

LITIGATION

The Company is not a party to any civil suits or other litigation.

LEGAL OPINIONS

Legal matters in connection with the sale of Common Stock offered hereby are being passed upon for the Company by Gerald E. Miller, Esq. 350 Lexington Ave. New York, New York and for the Underwriter by Howard Penser, Esq., 350 Fifth Ave., New York, New York.

EXPERTS

The financial statements included in this Offering Circular have been examined and certified by Goodman, Israelow & Lipton, Independent Public Accountants, as indicated in their report with respect thereto, and are included herein in reliance upon the authority of such firm as experts in accounting and auditing.

REPORT OF PUBLIC ACCOUNTANTS

To The Board of Directors
At-Your-Service Leasing Corp.

We have examined the Balance Sheet of At-Your-Service Leasing Corp. as of October 31, 1969 and the related statements of operations and accumulated deficit for the two years ended October 31, 1969. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the above-mentioned Financial Statements present fairly the financial position of At-Your-Service Leasing Corp. at October 31, 1969 and the results of operations for the two years then ended, in conformity with generally accepted accounting principles consistently applied.

GOODMAN, ISRAELOW & LIPTON

Irvington, N. J.
January 8, 1970

AT-YOUR-SERVICE LEASING CORP.

BALANCE SHEET
October 31, 1969

ASSETS

CURRENT ASSETS		
Cash		$ 158
Receivables (Note 1)		
Lease Contracts Receivable — Current Portion	$225,477	
Leased Vehicles — Estimated Residual Valuation — Current Portion	89,750	
Notes Receivable	10,000	
		325,227
Deferred Interest — Current Portion (Note 2)		33,129
Total Current Assets		358,514
LEASED AUTOMOBILES AT COST (Notes 1 & 2)	747,693	
Less: Accumulated Depreciation	125,707	
Leased Automobiles — Net		621,986
DEFERRED CHARGES AND OTHER ASSETS		
Receivables — Non Current Portion (Note 1)		
Lease Contracts Receivable	126,168	
Leased Vehicles — Estimated Residual Valuation	280,800	
Deferred Interest — Non Current Portion	20,712	
Miscellaneous	7,720	
TOTAL DEFERRED CHARGES AND OTHER ASSETS		435,400
TOTAL		$1,415,900

The Accompanying Notes to Financial Statements are an Integral Part Hereof.

AT-YOUR-SERVICE LEASING CORP.

BALANCE SHEET
October 31, 1969

LIABILITIES

CURRENT LIABILITIES		
Accounts Payable	$ 20,180	
Sales and Payroll Taxes Payable	1,109	
Notes Payable — Current Portion		
Leased Automobiles (Note 2)	345,923	
Officers — Non Interest Bearing Payable on Demand	27,150	
Others — Interest, 10% Per Annum Payable on Demand	114,500	
Security Deposits on Vehicles (Note 3)	7,084	
Total Current Liabilities		$ 515,946
UNEARNED LEASE INCOME		712,720
DEFERRED LIABILITIES (Non Current Portion)		
Notes Payable — Leased Automobiles (Note 2)	263,413	
Security Deposits on Vehicles (Note 3)	16,365	
Total Deferred Liabilities		279,778
CAPITAL DEFICIENCY (Note 4)		
Common Stock — $.01 Par Value		
Authorized — 500,000 Shares		
Issued & Outstanding 200,000 Shares	2,000	
Paid-In Capital	8,655	
Accumulated Deficit	(103,199)	
TOTAL CAPITAL DEFICIENCY		(92,544)
TOTAL		$1,415,900

The Accompanying Notes to Financial Statements are an Integral Part Hereof.

AT-YOUR-SERVICE LEASING CORP.

STATEMENT OF OPERATIONS

	Year Ended — October 31	
	1968	1969
Revenues		
Gross Income on Rentals of Leased Vehicles	$ 94,075	$190,970
Gains (Losses) on Sales of Leased Vehicles	(19,398)	1,440
Total Revenues	$ 74,677	$192,410
Expenses		
Direct Operating Costs — Leased Vehicles (Exclusive of Interest on Vehicle Obligations and Depreciation)	$ 28,205	$ 47,277
Interest on Vehicle Obligations	18,571	37,188
Depreciation of Leased Vehicles	47,445	97,147
Administrative and Selling	8,659	21,668
Interest on Other Obligations	4,951	7,866
Total Expenses	$107,831	$211,146
Net Loss	$(33,154)	$(18,736)
Net Loss Per Share*	$(.17)	$(.09)

* Based on 200,000 shares outstanding throughout both periods. See Note 4 to Financial Statements.

The Accompanying Notes to Financial Statements are an Integral Part Hereof.

AT-YOUR-SERVICE LEASING CORP.

STATEMENT OF ACCUMULATED DEFICIT

	Year Ended — October 31	
	1968	1969
Deficit at Beginning of Period	$ 51,309	$ 84,463
Net Loss for the Period	33,154	18,736
Deficit at End of Period	$ 84,463	$103,199

The Accompanying Notes to Financial Statements are an Integral Part Hereof.

AT-YOUR-SERVICE LEASING CORP.

NOTES TO FINANCIAL STATEMENTS

Note 1 — Principles of Accounting

Lease contracts (generally 26 months) which provide for full recovery of costs have been accounted for under the finance method of accounting wherein lease contracts receivable and estimated residual value of leased vehicles are carried in the balance sheet. Income from the contracts is recognized as the lease rentals become due.

Depreciation of Automobiles is computed on a straight line basis over 26 months and at a rate which is intended to reduce the carrying value of the vehicle to an amount approximating its market at date of disposal (usually at the termination of the lease period).

Note 2 — Notes Payable — Leased Automobiles

Leased vehicles are purchased by the Company with conditional Bills of Sale. The financing companies hold a first lien on each vehicle financed. Substantially all vehicles are disposed of by sale upon termination of the customers leases at which time the obligations are satisfied. Interest included in such obligations is amortized over the term of each obligation. The rates for financing charges vary from time to time as negotiated by the Parties. The recent rates range from an effective rate of 8½% to 10% per year on the unpaid balances of the loans.

Maturities of the Notes are as follows:

Due within one year	$345,923
Due after one year	263,413
Total	$609,336

Note 3 — Security Deposit on Vehicles

With each lease, one months rental is required to be deposited with the Company as security. These deposits are allocable as follows:

Lease expiring within one year	$ 7,084
Leases expiring after one year	16,365
Total	$ 23,449

Note 4 — Changes in Capital Stock

By an amendment to the Articles of Incorporation of the Company on September 12, 1969, the authorized capital stock of the Company was changed from 500 shares no par value to 500,000 shares with a par value of $.01 per share. On the same date, an 800 for 1 stock split was effected which increased the then outstanding shares of capital stock from 250 shares to 200,000 shares. Retroactive effect has been given for these changes in capital structure in the accompanying Balance Sheet.

The change in capital stock from no par value to $.01 par value and the 800 for 1 stock split reduced the capital stock account from its stated value of $10,655 to $2,000. The difference of $8,655 was transferred to the Paid-In-Capital account.

Note 5 — Federal Income Taxes

At October 31, 1969 the Company had a net operating loss carry-over of $102,043. This carry-over expires as follows:

October 31, 1971	$ 14,084
October 31, 1972	37,225
October 31, 1973	33,154
October 31, 1974	17,580

Note 6 — Insurance

At the present time, approximately 30% of the leases are under a plan, whereby the lessee provides his own insurance. The remaining 70% of the leased vehicles are insured by the Company. The insurance provides for blanket coverage of $500,000 on Liability, Property Damage and Fire and Theft. In addition, the Company has an umbrella policy in the amount of $1,000,000. The Company carries no collision coverage on the vehicles which they insure.

Note 7 — Supplementary Profit and Loss Information

The following amounts have been included in the Statement of Operations as charges to Direct Operating Costs and Selling and Administrative Expense:

	Year Ended — October 31	
	1968	1969
Maintenance and Repairs		
Directing Operating Costs	$3,212	$12,461
Taxes Other Than Income		
Payroll		
Selling and Administrative	236	598
Franchise		
Selling and Administrative	68	283
	$ 304	$ 881

UNITED STATES OF AMERICA
v.
VINCENT ALOI, et al.

CHARGE OF THE COURT

12/21/73

(Knapp, J.)

THE CLERK: The court is about to charge the jury. Any spectator wishing to leave the courtroom may do so now or remain seated until the completion of the court's charge.

Will the marshal please lock the door?

THE COURT: Ladies and gentlemen, there is no point in my repeating to you what each counsel said about the value of jury service.

Actually I think that is probably the only area in which all counsel generally agree with each other and I join in that.

Before getting into the charge, I just want to say something about summations. You have heard five summations in all and you will notice that all five of them ended with a rhetorical flourish. Rhetorical flourishes are perfectly all right if you take them for what they are intended to be and that is counsels' attempt in an emotional matter to focus your attention on what that particular counsel thinks is the importance of this case.

Mr. Lewis wants you to send out messages for the whole world that certain things aren't going to happen.

Mr. Schreiber wants you to enforce the laws. We are not here to send out messages to the world or even to the next courtroom, nor are we here to enforce the laws. We are here, you and I, for one very simple purpose, to find out whether it has been established beyond a reasonable doubt that these four defendants on trial before you have committed the crimes alleged in the indictment.

My part in that function is to tell you what the law is, the rules of law which have been developed over the centuries by legislators and courts and my function is to interpret them to you.

Your function is to find the facts and that is all you have to do here. You don't need to concern yourselves with what I think of it, what the government thinks of it, what the defense thinks of it or what the nebulous public thinks of it. You are to find the facts and you are not to concern yourself with anything else except the facts, what the facts are in this case. You find those facts, and the consequences flowing from them are not your responsibility.

What is going to happen, I am going to instruct you what I believe the law is and then I will excuse you for a few minutes while counsel on either side can make suggestions, criticisms, suggest additions, corrections, et cetera and after I have heard that, I will call you back

and make any additions or changes that I think appropriate then submit the case for your consideration. The reason for that is obvious, no lawyer wants to get up and argue with the court and say that was terribly wrong and I will say no, that is perfectly right and that would be imbedded in your minds what the lawyer wished had not been said. Those things are done in your absence and I make such corrections as I think are appropriate.

I have talked a lot about the function of the court and the jury throughout the whole trial. I have told you that you exclusively can deal with the facts and I have nothing to do with it at all. I want to tell you something, that the law does not require me to say that. It permits me, if I wished to in my discretion, to comment to you on the credibility of the various witnesses as they appear before us, as long as I let you know that your judgment is final.

Why do I say that? If I am not going to comment why do I tell you I could?

I do it for this reason: I want you to thoroughly realize that what I have been telling you from time to time is not some lip service I have to give to some rule that had been laid down by my superiors, it is my profound conviction that the best way a criminal case or any other

case as far as I am concerned, especially a criminad case, the best way justice is achieved in a criminal case is for the jury to be completely untrammled and unaffected by what the judge may think or what the jury may think he thinks.

From time to time I have given you illustrations of why but I just want to emphasize this that I am saying it not because I have to say it, but because I have the profound conviction that that is the way justice is achieved.

So, if I have done my job right, according to my idea how it ought to be done, you will go into the jury room without any idea of what I think about the credibility or lack of it of any witness or about any fact or issue of fact that is before you.

If I haven't done my job by giving you an opinion how I feel, don't compound my error by thinking that you will agree with what you think I may think.

As to the law, you must take that from me. That is not my idea. It is a mandate under the statutes under the Constitution. It is the essential element of a jury trial that the jury follow the law as interpreted by the judge. Whatever you think of it, whatever you think of the law as so interpreted, whether you think it is wise or foolish, it is your duty to follow and apply it.

Also, you are not to concern yourselves with what, if any, punishment will be administered if you should find the defendants or any of them guilty of any of the crimes charged in this indictment. That will be my responsibility should you impose that upon me.

I trust you to deal with the facts. You must trust me to deal with any responsibility your verdict may impose upon me.

To get back to your responsibility for finding the facts, that carries with it the responsibility and the exclusive privilege of assessing the credibility of the witnesses.

There is no mystery about how you appraise the truthfulness of a witness. Every day in our lives we have to appraise the truthfulness of things that are said to us. We hear statements by our children, by our parents, by other relatives, by business associates, shopkeepers, politicians, persons to whom we might want to sell, persons to whom we might want to buy.

Everybody speaks to us from day to day and we have to decide in the course of our lives whether they are telling the truth or not. All our lives we develop our own criteria, each begins to develop his own criteria as to how to appraise the truthfulness of what is being said.

The theory behind the jury trial is, that the process of appraising the witness' veracity is much better if 12 people with diverse experiences pool their common impressions and come up with a conclusion. After all, if I have to make a decision, I have only one set of experiences to go by, and also as you remember, I have all sorts of professional hangups just as counsel do.

You have 12 sets of experiences and the law rightfully in my opinion thinks a sounder result is achieved by letting you exercise your joint judgment than by allowing me to exercise my single judgment.

However, it is obvious that that theory only works if you fully discuss your views with each other so each of you can get the benefit of the experience of each other so in the end you may come up with a composite judgment as the law contemplates.

There are, however, several guiding principles which the law has developed over the years which is my duty to bring to your attention. You will note I say guiding principles, not rules, because they are not rules binding upon you, but merely guidelines for your use should you b2 find them helpful.

The first of these guidelines I am going to mention concerns the interest of a witness. The law says

that you may take into account the interest any witness may have in the outcome of the case.

Two of the defendants have testified. Their interest in the outcome is obvious. The purpose of this prosecution is to obtain a verdict which will authorize the court to commit the defendants to jail. Nothing can be more obvious than their interest in thwarting that objective.

Defense counsel on the other hand claim that many of the government witnesses have an interest, which colors their testimony, and I shall discuss that in a few moments.

The point is, that the existence and extent of any witness' interest is for you to determine and the effect, if any, on his or her testimony is for you to judge.

Defendants as I said, obviously have an interest, but the mere fact that a defendant or any other witness may have an interest does not mean that you must reject his or her testimony. It is just a factor you are entitled to consider together with all of the factors which in the aggregate, lead you to a conclusion as to whether a witness is telling the truth in whole or in part. By truth, I mean, recounting facts and events as nearly as possible as they actually occurred.

Another guideline is that if you find a particular witness has intentionally falsified his testimony as to any material fact, you may reject all of his testimony but you are not bound to do so. You may have considered the fact he lied to you on one or more matters and nonetheless conclude he is telling the truth on one or more different matters.

As I say, you do that daily in your life.

Some people who may lie to you may lie to you in such a way that you may say I will not believe another thing he says, no matter what it is. On the other hand, if someone has lied to you in a particular matter and after considering his motive for that lie, you may decide there will be other matters that you will be cautious on but you may believe him. Don't do differently in appraising a witness on the stand than you would in appraising what people say to you in your everyday life. That is why you are here, that is why I am not deciding the case, and you are.

Another guideline deals with what is called accomplice testimony. The bulk of the testimony in this case comes from witnesses who whether or not named as defendants in the particular indictment concede they participated in the crimes charged which means in the eyes of

the law, they are as guilty as the defendants on trial. The law calls such persons accomplices. The law says you are entitled to act on the testimony of such a person, but that you must subject it to special scrutiny.

That as I say, is common sense.

Obviously any person subject to prosecution for a crime either has or thinks he has an interest in ingratiating himself with the government by testifying on the government's behalf. Obviously it is more comfortable b3 to be on the witness stand than in a defendant's box.

Obviously the law says, and it is plain common sense, you should take those factors into account when weighing the testimony of a witness but the law also says, if after having taken those factors into account, you come to the conclusion that the witness has given truthful, i.e., factually accurate testimony, you may act upon it exactly as you would upon that of any other witness.

So much for a bald statement of the applicable legal principles.

In view of the fact so much of the defense cross-examination and the defense summation is devoted to this question, I want to analyze the defense arguments and discuss them in some detail.

In so analyzing or discussing, I don't want you

to get the idea I accept or reject any of it. Such acceptance or rejection is patently your province. I merely want to have you understand the contentions.

In discussing these contentions, I am going to focus on the witness Hellerman simply because he is the one upon whom counsel focused so sharply, and, after all, considerations applicable to him are essentially applicable to the other accomplices.

On one hand, defendants say Hellerman has an interest in maintaining the good will of the prosecution. That is obviously true.

As developed here, it seems that the prosecutors don't seem to have that much influence with sentencing judges. In one instance as we have heard, the prosecutor commended a witness for his effective cooperation in the case involving bribery of a congressional assistant and the judge nonetheless packed the witness off to jail.

In another case, the prosecutor complained about a witness' lack of cooperation and the judge after first imposing a prison term suspended execution of the sentence and allowed the witness to escape without a day in jail.

However, it is not reality that counts, it is the witness' perception of reality that counts and it would be foolish to think that Hellerman or any other accomplice would

not feel more comfortable with the prosecutor's good will than with his enmity.

Also, defendants point out that the witness knows that only the government and not defense counsel can institute prosecutions for perjury, and that is true. As to that, it must be observed that witnesses also know that only another court and jury can convict for perjury, or any other crime.

Defendants also urge that Hellerman and all the accomplices have been guilty of almost every kind of fraud and deception. Indeed, they contend that the witness conceded misconduct is far worse than anything charged against the defendants. To the extent you find such contentions valid, they are certainly entitled to your consideration.

However, the only purpose for which you could consider any of these matters is for your determination of the effect they or any of them in your exclusive judgment have on the credibility of the witness and by that I mean, the factual accuracy of the testimony coming from the witnesses' mouths.

These matters have no other relevancy whatever.

It is no concern of yours or of mine why the government decided to use these persons as witnesses rather than bringing them before you as defendants. If

you find their testimony to be truthful, you should act on it regardless of whether you may think the government is treating them too leniently or, for that matter, too harshly.

On the other hand, if after considering all of the evidence you have a reasonable doubt as to the truthfulness, that is to say, the essential accuracy of the testimony of any witness, you should disregard such testimony.

I have told you the government's integrity or lack of it has nothing to do with the case. However, there is one modification to that instruction. You may --looking at the situation through the eyes of the witnesses,-- consider what view the witness may have had of the integrity of the prosecutor.

For example, you will probably remember the time when Hellerman dramatically recalled Mr. Schreiber's telling him in words or substance, if you testify to anything but the absolute truth, I will prosecute you personally.

You may very well find it vital to your apprisal of the reliability of Hellerman's testimony to determine what he thought Mr. Schreiber meant by that.

Did Hellerman think that Mr. Schreiber meant exactly what he said or did Hellerman take it as an instruction to say whatever might be necessary to convict

these defendants regardless of the truth?

You may make similar considerations applicable to how you think other witnesses considered the expectations of the prosecutor.

With respect to past immoral criminal acts brought to your attention in the case of any witness, either for the government or for the defense, you are likewise at liberty to consider such acts on the question of credibility, the factual accuracy of the testimony given from the witness stand, but you may not use it for any other purpose.

It goes without saying that you will not convict a defendant as to whose guilt you entertain a reasonable doubt just because you did not like his personality or his life style.

It would be just as irresponsible for you to refuse to act on what you had found to be true testimony of any witness, either for the government or the defense, just because you didn't like that witness or his life style.

Some testimony has been admitted for a special purpose and should be used for no other purpose.

Specifically, several witnesses with varying degrees of intensity, have testified that they were in fear and in some cases that threats had been made to them.

This testimony was admitted solely to explain the

actions of these witnesses.

In making statements before the SEC and elsewhere, where it is now claimed either to be false or incomplete, such testimony cannot be used by you for any other purpose whatever. None of the defendants are charged with intimidating witnesses or obstructing justice. And there is as far as I can recollect, no evidence that any defendant threatened any witness.

So, should you conclude that any witness in fact experienced fear, you would not be justified in considering that fact as bearing on the guilt or innocence of any defendant.

I advise you that intimidating witnesses and obstructing justice constitute separate federal crimes and if the government thinks it has evidence that any defendant was guilty of such crime or crimes, the government may take such steps as it deems appropriate, but no such charge is now before you, so I instruct you that you are not to speculate as to whether any defendant was responsible for any fear you might find a witness to have experienced.

You are not to permit such a possibility to influence your consideration of the guilt or innocence of any defendant.

To the extent you find any witness to have

experienced fear, you may consider it only as a basis for evaluating the effect of such fear upon any prior inconsistent statement you may find that witness to have made.

On the subject of prior inconsistent statements, that means a statement prior to trial inconsistent with or different from a witness' trial testimony.

You may, if such statement has not been explained to your satisfaction by fear or otherwise, consider it as bearing on the truthfulness of his trial testimony.

For example, if a witness here should have testified that he is a lifelong friend of John Jones and it should be shown that he had told the SEC or someone else that he never met John Jones, you might if the SEC statement were not explained to your satisfaction, conclude that you could place no reliance on his trial testimony on that subject.

Also, if a witness has been shown to omit a material fact from a prior statement, you may, if you conclude that the circumstances of the prior statement required disclosure of the fact, and that its non-disclosure is unexplained, disregard his trial testimony concerning that
b4 fact.

Of course, if you thought the circumstances of the prior statement did not require disclosure of the fact in question or that its non-disclosure was otherwise

explained to your satisfaction, you would probably conclude that the prior statement suggested no reason for doubting the trial testimony concerning that fact.

To the extent that a witness on the witness stand adopts a prior statement as truthful or attests to its truthfulness, you may act on it just like affirmative testimony.

Moreover, if a prior statement was under oath, you may in your discretion consider it as on a par with trial testimony.

On the question of prior statements, just a word about so-called 3500 material.

You heard a lot about that during the trial. In the first place, 3500 is the number of the section in the statute that requires the government to make available to the defendants a wide variety of material with respect to witnesses called by the government.

In large measure, this material consists of notes taken by various people who have previously interviewed the witnesses.

It is perfectly obvious to you that such notes would not be admissible in evidence. They reflect the mental process of the note taker and not necessarily that of the witness.

If you should discuss among yourselves your respective methods of taking notes, you would probably find at least 12 such methods. Some of you may have more than one depending on the occasions. That is why I continually told you questions don't add up to evidence even though the questioner may have a memorandum in his hand at the time. This admonition of course applies with equal force to questions asked by the government or by me as well as questions asked by the defense.

There are certain things you are not to consider. The indictment in this case, for example, names 17 defendants and only four are on trial before you. You are not to concern yourselves with the guilt or innocence of any other defendant.

In the first place, the following defendants have pleaded guilty to one or more counts. Gilbert Dragani, Donald Fisher, Gary Fredericks, Edmond Graifer, Gerald Miller, Andrew Nelson, Louis Nova.

Also you recollect Mike Hellerman, Morris Winter pleaded to other indictments.

Some of those have testified, others have not.

In any event, their reasons for pleading were personal to them and have no bearing whatever on the guilt or innocence of any defendant on trial.

In determining the guilt or innocence of these defendants, you must bear in mind that guilt is personal. The guilt or innocence of a defendant on trial before you must be determined separately with respect to him solely on the evidence presented against him or the lack of evidence.

Therefore, the fact that other persons named in the indictment may have pleaded guilty is not evidence of guilt of any other defendant or, indeed, that the crimes charged were committed. The mere fact if ten people are indicted and three of them plead guilty, if those three aren't on trial, that doesn't establish for the purpose of this trial that those three are guilty of anything. They may have had any number of reasons for pleading guilty that are of no concern to you.

It may not be considered by you in any respect, nor may any adverse inference by drawn against any defendant by reason thereof. The guilt or innocence of the defendant on trial must be determined by the jury beyond a reasonable doubt, solely on the evidence introduced against him or the lack thereof.

Nor may you speculate as to why any of the other defendants, those who did not plead guilty and per contra pleaded not guilty, are not on trial before you.

As to the defendant Fusco, you know why he is no longer

on trial, he got sick.

As to each of the others, I will simply tell you it was my decision that they should not be on trial before you. I may have made that decision as to any of the absent defendants at the request of the government, at the urging of one or more of the defendants, upon agreement of all parties or over objection of all parties. Suffice it to say, their absence from this trial is my responsibility and has not the slightest possible bearing on the guilt or innocence of any defendant on trial before you.

Nor are you concerned with why the persons named in the indictment or otherwise identified as co-conspirators are not on trial here.

It is solely the government's responsibility to decide whom to name in an indictment. It is no concern of yours or mine. We have enough to do establishing the guilt or innocence of these defendants without worrying about others who are not similarly charged in this or another indictment.

Talking about other indictments, you will recollect that in the course of the cross-examination of several of the witnesses, it came to your attention that they have testified in other cases before this or other courts.

You will have noticed that you have not been told who are the parties to those cases, those other cases, nor what was the outcome of any of them. It was my decision to keep that information from you.

Again, I may have made that decision at the request of or over opposition of any or all of the parties.

Suffice it to say, your ignorance of those facts is my responsibility and I will ask you to take my word for that those facts have no bearing on any issue before you and that you should not speculate about them.

While on the subject of indictment, you will remember that I told you about this one at the time you were being selected as jurors.

It has no probative value whatever. It is just a mechanism for bringing these defendants to trial before you. It is no more indicative of the guilt of any of them than a similar piece of paper would be that Mr. Schreiber had without consulting anyone simply sat down and dictated to a stenographer.

Changing the subject, you will recollect that certain evidence was admitted only as against one or another of the defendants.

I call your attention to that circumstance every time it happened and you will recollect during summation,

Mr. Goldberg called your attention to it in one respect.

I shall not refer to those various bits of evidence but simply remind you what I said about each of them at the time: evidence offered or admitted only one defendant should not be considered in connection with your determination of the guilt or innocence of any other defendant.

Remember that each defendant is separately on trial before you and the guilt or innocence of each must be judged on the basis of evidence admitted as against him.

You will also remember certain testimony was admitted subject to connection. I now advise you that the government has succeeded in connecting all such testimony and that it may be considered by you as against all defendants.

In that connection, however, I want to remind you that my rulings as to admissibility or connection are based only on testimony and not on evidence.

Testimony you will recollect refers only to what witnesses have said regardless whether anyone believes them. Evidence, on the other hand, is testimony given by a witness and believed by you. You act only on evidence as so defined. I in making my ruling act on testimony.

So, my ruling that the government has succeeded in

connecting the testimony has no bearing whatever on your task of deciding whether the evidence, the testimony believed by you, establishes the guilt of the defendants or any of them.

This is a good occasion for reminding you again, that questions, no matter who asks them are neither evidence nor testimony.

Now we come to the most important rules of all. You will recollect that two of the defendants elected to testify and two did not.

Where a defendant elects to testify, his testimony is to be judged by you just like that of any other witness. However, when a defendant elects to exercise his constitutional right to remain silent, no inferences of any kind may be drawn from that fact.

This is more than a simple rule of convenience. Unless you observe it, justice cannot be done in this case. We live by certain rules and regulations. One of those b5 rules and regulations is the one I have just referred to.

These defendants are represented by experienced counsel whose responsibility it is to represent them in a manner which, according to their judgment, counsel's judgment, is most advantageous to their clients.

In exercising that judgment, they are told by

the Constitution what the rules are and they are entitled to believe that you will abide by those rules.

As a consequence, if after counsel have full consideration to the rules laid down by the Constitution, take the responsibility of advising their clients to invoke their rights that the Constitution gives them and then you don't play your part and obey that particular rule I am laying down to you, then those defendants simply have not had a fair trial. They have been cheated out of a right that the Constitution gives them.

You may think it is a good rule or a bad one, that is not the point. It affects the way the trial is conducted. If this were a civil trial, that rule wouldn't apply at all. If the government were just suing these defendants for money as a result of these activities, the government could call them as witnesses.

By the same token, the defendants would have all kinds of discovery privileges against the government which they don't have in this case because the rules applicable to the government and the defendants are geared to jibe with each other.

Because the defendants have this privilege, they are denied a lot of the other privileges which they would have if this privilege didn't exist.

Therefore, if you throw away this privilege in any way by doing anything except looking at the government's case in deciding whether the government has proved its case beyond a reasonable doubt withoutregard to any speculation as to what might have happened had the rules been different, then that defendant simply would not have had a fair trial.

I don't think I need to say anything more on that subject.

When you analyze it, it is common sense. In a civil case, all the plaintiff has to do is establish his case by what is called a preponderance of evidence which boils down to mean, it is more likely than not that what the plaintiff has asserted is true.

If it is more likely than not, the jury is entitled to give the plaintiff its verdict. That may be fine, and indeed it is fine, when all that is involved is whether A should pay B some money.

But the purpose of the government bringing criminal cases, is to authorize the court to commit the defendant to jail. Our liberties wouldn't be worth much if it would be permissible to put a man in jail just because guilt seems more probable than innocence.

Therefore, the law says that guilt must be

established beyond a reasonable doubt.

There are two words in that definition, reasonable and doubt. The meaning of doubt is self-apparent. The word reasonable, is in the last analysis, equally self-definable. It means a doubt for which you can give a reason. It isn't just a fanciful doubt or an excuse for ducking a duty. No one likes to be in the position of convicting a fellow human being but the law would be in a sorry state if jurors wouldn't take the responsibility of finding guilt if it were established beyond a reasonable doubt.

Also, the reasonable part of the term goes to the essence of jury deliberation.

If you have a doubt and express a reason for it and another juror has no doubt, your expression of the reason for your doubt will probably do one of two things. It will either enable your fellow juror to demonstrate to you that your doubt is unreasonable, or it will enable to demonstrate to him or her that he or she should have a doubt.

Just as I mentioned in the case of appriasing the credibility of witnesses, if you express your doubts or lack of them with each other, you should be able to resolve them one way or the other. Of course, a doubt like

everything else in this case, a reasonable doubt, must be based on the evidence or lack of evidence, not on something you may have heard outside.

It has to be based on evidence or lack of evidence, otherwise how can you discuss it with your fellow jurors if it hasn't been admitted in evidence before you.

In this connection I may point out that while it is your duty to discuss your doubts with each other and to listen to each other's views, you should adhere to any conscientious opinion you might hold and not give it up merely for the sake of unanimity. I don't think there is anything I could add to that.

The law simply requires you to do your best to convince your fellow jurors of the correctness of your views and at the same time, to listen with an open mind to theirs and to make a conscientious effort to reach a result which conforms with the conscientious belief that each of you holds.

Obviously I assume you are not going to start unanimous. Unanimity comes from discussion among you, exploration of your doubts or lack of them, discussion of the evidence or lack of evidence upon which those doubts or lack of them may be based. That is how unanimity is achieved.

SOUTHERN DISTRICT COURT REPORTERS
UNITED STATES COURT HOUSE
FOLEY SQUARE, N.Y., N.Y. 10007 TELEPHONE: CORTLANDT 7-4580

Before I leave the question of reasonable doubt being so important, let me read you another definition that is given by a judge for whom I have great respect.

It is a doubt, he says, based on reason, which arises from the evidence or lack of evidence in the case. It is a doubt --- that appeals to your reason, to your judgment, your common understanding and your common sense. Such a doubt as would case you to hesitate to act in matters of importance in your daily lives. But is it not caprice, whim or speculation. It is not a doubt a juror might conjure up to avoid the performance of an unpleasant duty. It is not sympathy for a defendant.

Let me repeat, it is a reasonable doubt.

Closely related to the doctrine of reasonable doubt, is the concept of the presumption of innocence.

That means that the government has the burden of proof in this case and that such burden never shifts.

I have told you the defendant doesn't have to prove anything. The point is, the presumption of innocence continues in his favor throughout the entire trial and remains there in the jury room until you have finally resolved it, if you ever do, by a verdict of guilty.

It means this, right up to the last minute, your discussions should include the proposition that the

government has a burden and if the government hasn't overcome that burden or, rather, sustained it, that in itself is the basis for a reasonable doubt.

So much for the general rules of law.

Let us turn to the crimes charged in this indictment.

First let me outline the basic criminal enterprise that the government claims to have established. That alleged enterprise is a basically simple one, and when I say simple, it doesn't mean it is simply for you to decide whether the enterprise existed and if so, who participated in it. I merely say that the alleged plan is simple for me to state.

The government claims that Mr. Craifer and certain of his associates, who as you will recollect, were indicted but are on trial, and I have told you about their not being on trial, were deeply involved in a corporation known as At Your Service Leasing and they wanted to unload this corporation on the public and get their money out of it.

First they tried to do this through more or less legitimate means, got up a prospectus and got in touch with brokers and tried to see if the public, which as one of the witnesses testified, was going through one of its speculative phases, could be induced to buy. That attempt

met with failure.

The defendant Graifer who it is claimed was associated with the defendant Lombardo, journeyed to Florida to obtain the assistance of another friend of theirs, a defendant not on trial, Sebastian Aloi. Aloi according to the government's claim undertook to assist his friend Graifer and thought of Michael Hellerman as a likely person to do the job. However, Mr. Hellerman, according to the government's theory, was associated with the defendant Dioguardi and not available for direct contact with Graifer.

Sebastian Aloi, accordingly undertook to and did contact the defendant Dioguardi who in turn authorized Michael Hellerman to concern himself with the matter.

Hellerman enlisting the help of others about whom you have heard proceeded, in colloquial language, to put the show on the road.

Shortly thereafter according to the governments theory, the operation got sidetracked because the defendants Savino and Fusco, who according to the government's claim were also associated with Sebastian Aloi, protested any arrangement whereby Hellerman would be allowed to participate in the venture which would be profitable to him without an assurance that a claimed indebtedness from him to them in the amount of $10,000 would be taken care of.

SOUTHERN DISTRICT COURT REPORTERS
UNITED STATES COURT HOUSE
FOLEY SQUARE, N.Y., N.Y. 10007 TELEPHONE: CORTLANDT 7-4580

Learning that his hope of unloading At Your Service stock had been blocked by Fusco and Savino, the government contends, Graifer journeyed back to Florida to get more help from Sebastian Aloi. Sebastian again came to the rescue and this time working through his son Vincent Aloi, the defendant here, saw to it that the dispute between Savino and Fusco was ironed out and again to use the vernacular, the show was put back on the road.

After Sebastian's intervention, according to the government's theory, they proceeded to unloan this stock and the conspiracy was accomplished.

You will see according to the government theory, several of the defendants had the following roles in the conspiracy.

Defendant Dioguardi authorized Hellerman to interest himself in the matter and generally supervised Hellerman's conduct with respect thereto.

Defendant Vincent Aloi at his father's request entered the conspiracy for the purpose of ironing out the difficulties engendered by defendants Fusco and Savino and arranged for the conspiracy to continue on condition that $10,000 of its proceeds would be applied to the Fusco-Savino claim against Hellerman.

Savino joined the conspiracy for the purpose of

having that claimed satisfied.

Defendant Lombardo who was placed on At Your Service Leasing's payroll or employed by it depending how you view the testimony, is claimed to have participated in the original negotiations between Graifer and Sebastian and thereafter more or less run herd on the operation.

Those as I say are the government's claims. I need not tell you that I add nothing to their force by stating them to you.

That in broad outline is the government's theory and your first task is to determine whether it is a valid one.

Based on the assumption that the foregoing theory is valid, the government has charged these defendants with certain specific crimes. The first count of the indictment charges conspiracy. The crime of conspiracy as defined in the statutes of the United States substantially as follows.

If two or more persons conspire to commit any offense against the United States and one or more of such persons does any act to effect the object of the conspiracy, each shall be guilty of a crime.

That is very simple. Let me repeat it.

If two or more persons, any two, conspire to commit

an offense against the United States and one or more of such persons does an act to effect the object of the conspiracy, each shall be guilty of the crime.

You will readily see there are three elements of that crime. First, there has to be a conspiracy. Secondly, the object of the conspiracy has to be to commit an offense against the United States and, thirdly, one or more of the conspirators has to do something to effect such unlawful objective.

What is a conspiracy? A conspiracy in ordinary layman's language is no more or less than a common understanding entered into between two more more persons to achieve an unlawful objective.

We are always in our daily lives watching people engaged in common undertakings. However, we only call such a common undertaking a conspiracy if its objective is an unlawful one.

Your first task is to determine whether these four defendants or any of them engaged with each other or with any other person in a common undertaking to achieve the unlawful purpose described in the in dictment.

A conspiracy obviously does not have to be reduced to writing and does not have to have any particular formality attached to it. It is, as I have said, simply a common

undertaking. Indeed, all conspirators, don't necessarily have to have talked to each other or know of each other's existence. What is necessary, however, is that they know of the existence of the common undertaking, are aware of its unlawful purpose and intend to further that particular unlawful purpose.

You can't stumble into a conspiracy by mistake. A person can't be guilty of a conspiracy just because he associates with others who happen to be so guilty. He can be guilty of conspiracy only if he knows a common undertaking is underfoot, if he knows that such a common undertaking has a particular unlawful purpose and if he wilfully and intentionally decides to join in the undertaking for the purpose of furthering that particular unlawful purpose.

However, if he once makes that decision and undertakes to further that unlawful purpose, his motives for doing so are immaterial.

They may be for financial gain, for filial affection or to promote the interest of his associates. Financial gain or lack of it, of course, may be considered by you on the likelihood of a given person's entering a conspiracy but whether or not such gain exists, is of no consequence if you should decide that a given person had in fact entered a conspiracy.

Of course, once a person is found to have entered the conspiracy, it is immaterial whether or not he accomplished his purpose in doing so.

So, the first question that confronts you is, whether these defendants or any of them consciously and intentionally became parties to a common enterprise to accomplish an unlawful objective, the unlawful objective set forth in the indictment.

What then are the unlawful objectives?

They are claimed to be threefold. The two principal ones being violation of the securities laws of the United States and of its mail fraud statutes.

I'll have more to say about those statutes later but I advise you as a matter of law that the objectives of this conspiracy as described by the government, namely, obtaining moneys from the public by fraudulently pumping worthless securities into the ordinary channels of commerce could not be accomplished without violating the above mentioned statutes and you would be entitled to conclude that any defendant whom you find to have intended such objectives, must have contemplated the violation of those statutes.

The next thing you must find is that some conspirator, not necessarily any of the defendants, committed an overt act.

did something concrete in the conspiracy.

The law says it is no crime just to stand around and plan. You have to do something in furtherance of the plan. It may not be particularly significant, but it has to be something.

b7

This indictment sets forth a wide variety of overt acts. I shall not trouble to read them to you. You may call for the indictment or read it yourself if you want to. Suffice it to say you must find that someone performed at least one of the overt acts set forth in the indictment.

I will also advise you that these so-called substantive offenses which I will discuss with you shortly are also listed as overt acts in the indictment, so if you find that any of the acts so listed have been performed, performed by one of the conspirators, such finding can meet the requirement of an overt act for the purpose of the conspiracy.

Your first task then is to decide whether these defendants or any of them are guilty of conspiracy under the rules as I have laid them down.

If you find that one or more of them are not so guilty, or that there is a reasonable doubt on that subject, your task is finished as to such defendant or defendants, because under the theory I am submitting this case to you,

no defendant can be convicted of a so-called substantive offense unless he has first been found guilty of conspiracy.

What then is the theory to which I have just referred? It is a principle of law that where two or more persons join in a conspiracy to achieve an unlawful purpose, all of them become guilty of any criminal act performed in the furtherance of that conspiracy, whether or not any of them individually had anything to do with that particular unlawful act or even knew of its existence.

Let me say that again.

If two or more people confederated together to accomplish an unlawful purpose, they become in the eyes of the law partners in crime and just as in any other partnership, each partner is responsible for the acts of the other in furtherance of the agreed objectives of the partnership.

With that background, let's look at the so-called substantive crimes alleged in this indictment.

I am not going to discuss these individual crimes in the order that they are listed in the indictment or even in chronological order, but rather in the order that seems to me most conducive to clarity of presentation to you.

The first substantive act I am going to discuss with you is alleged in the last count of the indictment, namely count 18.

SOUTHERN DISTRICT COURT REPORTERS
UNITED STATES COURT HOUSE
FOLEY SQUARE, N.Y., N.Y. 10007 TELEPHONE: CORTLANDT 7-4580

Count 18 charges in effect that this printed prospectus or brochure about which you heard so much, namely Exhibit . was false and misleading in that it failed to disclose several material facts including among others, that Hellerman was involved in the deal and that some $45,000 would be siphoned off to the five defendants originally on trial before you.

I needn't trouble you with reciting the other omissions which you have already heard about.

I advise you as a matter of law, if you find that this circular did fail to make the disclosures mentioned in the indictment and that if such disclosures would in your judgment have been of material interest to a purchaser of the securities, the issuance of that prospectus would have violated the securities laws of the United States.

I further advise you, if you find the issuance of the circular was in furtherance of the conspiracy and in the reasonable contemplation of the contemplation of the conspirators, you may find any defendant whom you may have found guilty of conspiracy, to be also guilty of the crime of issuing the false financial statement alleged in count 18 of the indictment.

I shall next discuss with you counts 2 through 8. They allege that on certain specified dates, certain confirmations of purchases were placed in the mail in pursuance

of this conspiracy.

The counts also alleged that such mailing constituted the crime of mail fraud in that the mailing was done in pursuance of a scheme to defraud.

I advise you as a matter of law that if you find that these confirmations were in fact placed in the mail and that they were in fact placed there as part of the scheme to perpetrate fraud on the public which is alleged in the indictment, such use for that purpose would constitute a crime against the United States.

I will read to you from the individual instances of mailing as set forth in the indictment.

I am reading from page 15 of the indictment and as I told you you will have it.

They set forth counts 2 through 8, and that sets forth seven individual mailings.

On August 6, 1970, a confirmation for the purchase of 1,000 shares marked paid was sent to Marion T. Mulligan, 306 East Mosholu Parkway, South Bronx, New York.

Incidentally, when I say was sent, that is what the indictment says.

On July 30, 1970, a confirmation for 500 shares marked paid was sent to John F. Wagner, 24 Glenn Court, East Rutherford, New Jersey.

On July 30, 1970, confirmation for 300 shares marked paid was sent to Maria Silva Farinhas in Newark, New Jersey.

On July 30, 1970, confirmation for 700 shares marked paid was sent to Donald Basto, Prielle, New Jersey.

Count 6, confirmation for 200 shates marked paid was sent to Arthur Sardo in Newark, New Jersey.

Count 7, confirmation of 1,100 shares marked paid was sent to Arthur DePinho Sardo, Newark, New Jersey.

Count 8, confirmation for 700 shares to Victor and Anna Favale, Jersey City, New Jersey.

As to those counts, I charge you if you find those confirmations were mailed, that such mailings were a deliberate part of the fraud alleged in the indictment and within the reasonable contemplation of the perpetrators of that fraud, you may return a verdict of guilty with respect to those counts as to any defendant or defendants whom you have found guilty of conspiracy.

While I am on this subject let me make just two observations.

In the first place, you will recollect I referred to a series of dates. Now the law says that the actual date is not important and that an event can happen on or about the date it is alleged so unless you find that any particular date has some significance you need not concern yourself with

whether a date is stated with precision in the indictment.

The second fact for consideration is that this court only has jurisdiction over a crime, some part of which is committed within the Southern District of New York, which for present purposes, substantially means Manhattan Island and the Bronx.

You will note with the exception of Mrs. Mulligan who lived in the Bronx, all the addressees of the letters were in New Jersey and my recollection is that the testimony was that they were all mailed from Hempstead, Long Island.

In that connection, you will recall the testimony of the United State Post Office employees who described the route of the mail from Hempstead to New Jersey, which went, as I recall, either through the Lincoln or Holland Tunnel and therefore necessarily traversed the Southern District of New York.

If you credit that testimony, you may then find that all of these crimes were in part committed in this district, if indeed you find they were committed at all.

I next turn to counts 13 through 17 which deal with different mailings.

Now, the language of those counts is different from the language of the ones I have just discussed with you because they charge violation of different statutes of the

United States.

However, you did not come here for a lecture on United States statutory law and I advise you the difference in verbiage is without signiciance to you. The essential questions in both sets of counts are the same, were the mailings made, were they deliberately made pursuant to the scheme to defraud alleged in the indictment and were they within the reasonable contemplation of the perpetrators of that scheme?

If you find those facts to be established to your satisfaction beyond a reasonable doubt, you may find guilty on counts 13 through 17 any defendants whom you have already found guilty of conspiracy.

I shall now define to you the mailings listed in counts 13 through 17.

13 is a confirmation for 200 shares stamped paid sent to Francis R. Murray in Kearney, New Jersey.

14, 700 shares marked paid to Frances Laudadio, Kearney, New Jersey.

15, confirmation of 200 shares stamped paid Michael Irene, Bloomfield, New Jersey.

16, confirmation 500 shares July 30, 1970, A. Farishian, Belleville, New Jersey.

17, confirmation of 500 shares marked paid July 30,

1970, to James Yacenda, Bloomfield, New Jersey.

The same considerations apply, as to the dates and as to transmission through the Southern District of New York.

I now turn to counts 10 and 11 of the indictment. Those counts allege that the defendants on trial are guilty of the use of interstate telephone equipment in furtherance of their unlawful scheme to defraud. These two alleged conversations were as follows.

Some time in June of 1970, it is claimed there was a telephone conversation between Sebastian Aloi in Florida and Vincent Aloi at 6 Maurice Lane, Suffern, New York.

Incidentally, Suffern, New York, is also in the Southern District.

The 11th count alleges also in June of 1970, there was a telephone conversation between John Dioguardi in New York and Sebastian Aloi in Florida.

You will recall what these calls are claimed to have been about. The John Dioguardi call is the one you heard about in both summations from the phone booth.

I charge you, when I say you heard about it, that doesn't mean it existed or didn't. One summation said it did, the other said it didn't.

I charge you as a matter of law, if you find those

SOUTHERN DISTRICT COURT REPORTERS
UNITED STATES COURT HOUSE
FOLEY SQUARE, N.Y., N.Y. 10007 TELEPHONE: CORTLANDT 7-4580

calls to have been made and you find they were made in furtherance of the unlawful scheme to defraud alleged in the indictment and that such telephone calls were within the reasonable contemplation of the conspirators, you may find guilty of count 10 and 11, any defendant whom you have already found guilty of conspiracy.

The last count I will discuss with you is count 9 which is also a telephone call. This is a telephone conversation alleged to have occured in May, 1970, between John Dioguardi in New York and Sebastian Aloi in Florida.

As to that conversation, the government only charges the defendants Dioguardi and Lombardo, and does not charge the defendants Vincent Aloi and John Savino.

The reason for that is, as you recollect, according to the government's theory, Vincent Aloi was not brought into the conspiracy until after the defendants Fusco and Savino had blocked Hellerman's original efforts and Vincent Aloi's role in the conspiracy was to put the show back on the road at his father's request and Savino's role was to use it to collect the money owed.

On that theory this telephone call, the one in May, would not have involved those defendants because it is the government's theory that this was the call between Sebastian Aloi and Dioguardi which originally put Hellerman

into operation.

And, of course, you must recognize, a person joining a conspiracy does not retroactively become responsible for what may have happened before he became a partner. Therefore, even if you should find that Vincent Aloi and Savino did join the conspiracy as claimed by the government, they would not be responsible for this particular criminal act. Therefore, as to this act, you may find guilty only the defendant Dioguardi and the defendant Lombardo.

And then, of course, only if you have already found them guilty of the original conspiracy and have found this call was one of the means by which that conspiracy was carried into effect.

That, ladies and gentlemen, is the outline of the case. What I am going to do now is excuse you and in a few minutes, I will let you know whether you should eat your lunch now or not, depending what my appraisal is of how much time we will need before I see you again. When you come back, will the alternates bring with them whatever personal effects they have because I will submit the case to the jury finally the next time you are here.

(Jury leaves room.)

THE COURT: Mr. Lewis?

MR. LEWIS: I take exception to your Honor's

comments to the jury that Mr. Lewis wants to send messages to the world.

THE COURT: You said that as I recall.

MR. SCHREIBER: I think it was Mr. Goldberg.

MR. LEWIS: It was Mr. Lewis.

Also if your Honor pleases, with respect to my request to charge, I know you told me that you denied 1 and 5; and though I take exception to your Honor's failure to charge that, I asked your Honor to charge number 3 to my request to charge which says that I charge you in order to find the defendant Vincent Aloi guilty of the conspiracy count, you must find that he in some sense promoted the venture himself, made it his own or have a stake in the venture.

THE COURT: I think I covered that.

MR. LEWIS: No, you didn't.

THE COURT: I think I did.

MR. LEWIS: I ask your Honor to charge the jury as to request 4, that amere willing participation in acts with alleged co-conspirators knowing in a general way that their intent was to break the law is insufficient to establish a conspiracy.

THE COURT: What number is that?

MR. LEWIS: That is request number 4.

THE COURT: I think I covered that but I will say

it again.

MR. SCHREIBER: If your Honor please, may I be heard on that?

THE COURT: Why don't you wait until he is through.

MR. LEWIS: I ask your Honor to charge request 14 and 15 which are certainly generally charged. 14 says I charge you that a defendant should not be convicted on suspicion or conjecture.

15 says I charge you that in our system of criminal jurisprudence, we do not recognize guilt by association.

THE COURT: I think I have covered that.

MR. LEWIS: You didn't say a word about that.

THE COURT: I think I did.

MR. SCHREIBER: If your Honor please, I would like to respond.

THE COURT: Why don't you respond to them all at the end?

Mr. Goldberg: How long do you think this is going to be, shall I have the jury eat?

I understand the food isn't here yet.

MR. GOLDBERG: I reaffirm my written request to charge.

THE COURT: Don't reaffirm. I think I have covered

them all.

MR. GOLDBERG: I take exception to the failure to charge as I requested with respect to mere presence and guilty knowledge in number 7 and the failure to charge the accomplice testimony are set forth in paragraph 8 of my charge and recently approved by the Court of Appeals.

THE COURT: I think I have covered that more fully than you do.

MR. LEWIS: I join with Mr. Goldberg.

THE COURT: Everybody joins.

MR. LEWIS: I did specifically request that because that is a late decision in the Gonzalez case.

THE COURT: I think I covered it more fully than you did but you have your exception.

MR. GOLDBERG: I except to your Honor's failure to charge with respect to my number 9 on page 3, insofar as you didn't indicate that a defendant may testify truthfully, even though lives are hanging in the balance.

THE COURT: I think I told them it is up to them. I didn't use exactly that language.

MR. GOLDBERG: I except to your Honor's reference to 3500 of Title 18, calling to mind early in the trial your Honor--

THE COURT: I read that case you cited and it didn't

say what you said it did, in my judgment.

MR. NEWMAN: You are mistaking him for me, Judge.

MR. GOLDBERG: I think there is another case, Youngblood; so I except to that.

b9

I except to the failure to indicate that the existence of crimes committed by a number of witnesses may be considered not only on the question of credibility, broadly stated, but may also go on the issue of their favor or bias that they may feel for the side for whom they are testifying. I don't think your Honor made any reference to the concept of bias.

THE COURT: I said it is obvious they will feel more secure if they have the good wishes of the government.

MR. GOLDBERG: I thought you said the commission of crimes have no importance.

THE COURT: I said that in a different content. I think the jury got the difference.

MR. GOLDBERG: I rest.

MR. NEWMAN: I join with both of my predecessors' requests and exceptions, Judge.

I have one request--

THE COURT: Do you have the list of proposed verdict?

MR. LITTLEFIELD: I don't understand, your Honor.

THE COURT: That was a misunderstanding between me and my clerk. I thought he had told me you were preparing a schedule to submit to the jury so they can check off their verdict.

MR. LITTLEFIELD: No. I can prepare that at lunch.

THE COURT: I don't think I can do it now.

All right, they can get along without it.

MR. NEWMAN: Your Honor, I request that your Honor charge that if they find any defendant guilty of conspiracy, they need not necessarily find him guilty of the substantive count and that is on the theory there is an element in the substantive count which is not in the conspiracy.

THE COURT: Don't you think I made that clear? I said each time they may.

MR. NEWMAN: I thought your Honor couched it in language that seemed to make it follow by necessity, that if they find them guilty of conspiracy, they must find them guilty of the substantive count.

I take exception for one further thing. Your Honor in referring to the accomplice witnesses, your Honor stated that these witnesses are as guilty as the defendants.

I think your Honor meant to indicate that they by their admission were involved in this situation, but it came out that they are as guilty as the defendants which may

have given an impression that the defendants in your mind are guilty.

THE COURT: Do you want me to refer to that?

MR. NEWMAN: I don't think there is any way to cure it.

THE COURT: I can cure it by calling their attention to the fact that I didn't mean it.

THE COURT: I will call it to their attention if you want me to.

MR. NEWMAN: No, let it rest, Judge. In any event, so the record is complete, I join in everybody else's exceptions and requests.

MR. DiPAOLA: I join in the requests and exceptions for my client, too.

THE COURT: Now, Mr. Schreiber.

MR. SCHREIBER: I think the charge was very straightforward and very simple and very understandable.

THE COURT: I just wanted to know whether you had any exceptions.

MR. SCHREIBER: I just had some comment about Mr. Lewis' request No. 4 because I don't think it accurately states the law.

It reads as follows:

"I charge you that a mere willing participation in the acts of alleged co-conspirators knowing in a general way their intent was to break the law is insufficient to establish the conspiracy."

Well, if someone knows of a conspiracy and he willingly participates in the acts of the co-conspirators knowing in a general way they are about to break the law and are conscious of breaking the law, well, he is a con-

spirator then.

THE COURT: No, he has got to know more than that.

MR. LEWIS: If I am wrong then the Court of Appeals is wrong. It was taken directly from a recent Court of Appeals decision.

MR. SCHREIBER: If your Honor please, in connection with the securities law, we don't have to know that you are violating any specific statute. All you have to know is --

THE COURT: That is what I told them.

MR. SCHREIBER: I don't think there is any need to say anything more. If your Honor brings this out, it will highlight this at the present time.

THE COURT: I am going to repeat what I said before and let it go. I am just going to repeat what I said before and put it in context.

MR. LEWIS: What are you talking about now, request No. 4, Judge?

THE COURT: Yes. I will not just read it and let it go at that. I will put it in context and refer back to what I said before and say that is what I intended to say.

MR. LEWIS: Yes.

MR. SCHREIBER: Mr. Littlefield is getting the copy of that decision.

THE COURT: Don't bother with that. It is the law and fits in with what I said before, and I will repeat what said before, and I will repeat what I said before.

Anything else?

MR. SCHREIBER: You very concisely stated the Government's contention, but there are two additional things.

No. 1, it is the Government's theory -- and I think the proof supports it -- that Vincent Aloi's intercession in the deal was basically originally at Fusco and Savino's request, and then the telephone call to his dad was when he agreed to reinstate the deal so that Fusco and Savino could get their money back.

His role also was critical in that he handled the payoff of the $45,000. Your Honor made no reference to that.

THE COURT: I won't give them all the details.

MR. SCHREIBER: So to the extent that Vincent Aloi participated in the distribution of the proceeds I think that would implicate him.

Also, if your Honor will recall, the Govern-

ment's proof was that Ralph Lombardo's role was to make the first approach to Hellerman, to see if Hellerman could do it.

THE COURT: I just wanted to give them the theory on which you are operating. I will explain to them, as far as both counsel are concerned, my rendition of any facts either by the prosecution or the defendants certainly doesn't mean I think either one is correct or not.

Bring them in.

MR. SCHREIBER: Could your Honor hold it one second?

THE COURT: No, I don't care whether that case says it or not. Mr. Lewis knows more law than the Court of Appeals anyway.

MR. NEWMAN: Your Honor just paid a tremendous compliment.

MR. LEWIS: I just hope we don't have to go there. In fact, it does say that word for word, if you look at page 277 of the slip opinion.

(Reading.)

Then they cite this case and, of course, the other case is the one cited by Judge Learned Hand.

MR. SCHREIBER: If your Honor please, this is

a narcotics case.

THE COURT: Don't.

MR. LEWIS: The law is the law.

MR. SCHREIBER: Your Honor won't hear me out for just a brief moment?

It is not the law on securities, that you have to know that you are breaking the law. You don't need a mens rea, a higher standard.

(Jury in the box.)

MR. SCHREIBER: If your Honor please, I would like a side bar. There is something Mr. Littlefield mentioned to me that I forgot.

(At the side bar.)

MR. SCHREIBER: Your Honor --

THE COURT: I am not going to correct it. I am going to say what I stated.

(In open court.)

THE COURT: There is one thing I neglected to say which is so obvious to me. I usually say it, but it is so obvious to me that I neglected to say it.

The mere fact that I mentioned some testimony and didn't mention other testimony and said I recollect something happened or didn't recollect something happened has no bearing at all on your duty.

The reason I selected some facts to mention was merely to illustrate a point I was trying to make.

For example, I tried to tell you what I thought the Government's theory was, and obviously I didn't go into all the factual arguments the Government made. I was just trying to illustrate their theory.

In connection with the defense I tried to illustrate their theory. And the fact I didn't mention anything doesn't mean what I did mention was anything more important. What I did mention was my view, even though you might think my view had no relevance.

The fact that I said I remembered certain things doesn't mean it did happen or the fact I didn't doesn't mean it didn't happen. That was to illustrate a point.

Now, the defendants, as usual, previous to trial submitted certain requests to me that I charge and Mr. Lewis submitted one which he thinks I didn't charge. I think I did. However, rather than have a discussion about it I will read you his particular paragraph again, which is that a mere willing participation in acts of alleged co-conspirators knowing in a general way their intent was to break the law is insufficient to establish the conspiracy.

I don't know if I used those words, but I told

you quite specifically that anybody who joins a conspiracy -- you can't get into a conspiracy just by being around where other conspirators are, you can't get into a conspiracy by knowing bad people. You have got to know the specific objective of that conspiracy, the specific unlawful objective.

Of course, that doesn't mean you have to know what section of the statute they violated, or anything of that nature. You have got to know the specific unlawful objective of the conspiracy and make a conscientious determination to use your efforts to carry that objective forward.

Now, one of the defense counsel got the impression that I told you that if you found the defendants guilty of the conspiracy you had to find them guilty of all the substantive counts. I am sure I didn't intend to tell you that and I don't think you got that impression.

2 You can't find the defendants guilty of independent counts until you find them guilty of conspiracy -- until or unless you find them guilty of the conspiracy. That applies to each and every one of them.

Naturally, as I told you many times, guilt is individual.

So as to the substantive counts, before you come

to the substantive counts you decide as to each defendant, is he guilty of the conspiracy. If your answer to that is no, or there is a reasonable doubt on the subject, that is the end as far as that defendant is concerned.

Then, if as to any or all the defendants there is a yes answer, you proceed. And remember what I said about each count. In substance it is what is reasonably in contemplation of the conspiracy. Did it happen and was it in contemplation of the particular defendant whose case you are considering?

That doesn't mean he has to contemplate the particular mailing, but he has to contemplate that that kind of unlawful activity was going to go on. If he does, then you find him guilty provided you find all the other things I told you about before.

There is a copy of the indictment available to you and you may have it if you want it.

Also you may have any exhibits that are in evidence that you want. What you do is you ask for them and the clerk will send them in to you.

Also if you want to have any portion of my charge read back to you, or you want me to explain anything to you, you may send in a note and it will be done.

Also if you want any testimony read back to you,

you send in a note and it will be done.

Now, as to the testimony, if you want it read back, don't expect an immediate reply because you may say, "I want the testimony of such-and-such on such a question." You won't be able, of course, to say what page, and so on, but "Such a witness on such-and-such a date."

First we will get counsel to go and see if they agree on what you mean. Then we have got to get the stenographer and see if he can find it in the record.

If counsel can't agree, and if I can't, then we will have to call you in for more particulars.

However, don't just stop your discussions, but go ahead with your discussions and in a half hour or so you will probably be sent for.

One thing. If you should ever send me a note, one thing I do not want to know is how you stand. I don't mind if you tell me you disagree 10 to 2, or whatever, but I don't want to know who the 10 are for and who the 2 are for.

I will tell you why. It may well be -- that doesn't always happen, but it sometimes does -- that there comes a point where you want advice as to how you should resolve your differences. This is just a suggestion.

You may say, "We have a disagreement, we would

like your advice."

If you tell me you are 10 to 2 and I don't know which side is ahead, so to speak, I have no hesitancy in giving you my advice. But if you tell me 10 to 2 and one side or the other is ahead, there is no device known to man that I can discuss it with you without giving the 2 the impression I am trying to get you to go over to the 10, which obviously isn't the idea.

However, if I don't know, nothing I can say will take away the impact of the 2, whether you disagree with the 10, which is immaterial in the first place. I don't want to give you any impression. So never under any circumstances when you send me a note tell me how you stand.

If there is any other information you want or any other questions you want to ask I am available to you.

Will the marshals be sworn, please.

(Deputy marshals sworn.)

THE COURT: Ladies and gentlemen, I am going to submit the case to you. Just remember what I said at the start of this charge, what I said at the start of the trial. The only question before you is has the guilt of each of these defendants been established to your satisfaction beyond a reasonable doubt. No other ques-

tion is before you.

The responsibility for your conclusion is not yours one way or another. Your oath and your responsibility is to answer that question.

Ladies and gentlemen, you now have the case.

Will the alternates just stay there? Will the alternates stay in the box?

MR. LEWIS: Judge, I may be wrong, but I didn't hear you say that the verdict has to be unanimous.

THE COURT: Oh, you are perfectly right.

Thank you, Mr. Lewis.

Your verdict obviously has to be unanimous. I didn't specifically tell you in the charge. There can be no verdict either way unless it is unanimous.

Thank you, Mr. Lewis.

(The jury left the courtroom at 2.30 p.m. to commence deliberations.)

(In open court, without the presence of the jury.)

THE COURT: Come to the side bar.

(At the side bar.)

THE COURT: As Judge Edelstein did, I am going to keep the alternates. I read the argument. I have instructed the marshals to send them to a hotel.

MR. GOLDBERG: You have to instruct them they can't talk about the case.

THE COURT: Yes. I am going to excuse Alternate No. 1. He came in to see me yesterday and I have the transcript, but I can't find it. However, I will tell you in substance it is not like a situation where if you are under duress you can ignore your strictures. You know, in the days of the very vigorous fish laws if you are under duress and you had no food you could eat it, and there is no sin.

I specifically put that to Alternate No. 1. If he is held here he would have to walk to the hotel and he would have a long time walking to the Commodore and it is not his idea of fun. So I am going to excuse him.

MR. GOLDBERG: All right.

When you said you read the argument of Judgge Edelstein, of course, my colleagues haven't. However, it seems to me didn't the Court of Appeals come down just recently with another opinion and say it would be appropriate?

THE COURT: The best information I have is it is an open question that I hope won't be decided in this case.

MR. LEWIS: I had an interesting one on that where we had 13 jurors deliberating.

THE COURT: That was not good, I suppose.

MR. LEWIS: No. Frankly, Judge Bruchhausen set aside the verdict.

MR. GOLDBERG: I under no circumstances will ever consent to a 13th juror going in.

THE COURT: No. I assume no defense counsel is ever going to throw away --

MR. LITTLEFIELD: Your Honor, the exceptions should be stated at the side bar, not in front of the jury.

MR. DiPAOLA: As far as the exhibits are concerned, you don't need this if they should request them, do you, Judge?

THE COURT: I want counsel to be available on ten minutes' notice. However, do we have a stipulation that the clerk may exercise his judgment in sending in exhibits?

MR. DiPAOLA: Yes, I so stipulate.

THE COURT: Any time the clerk has any doubut he will communicate with me and I won't make any decision until I hear from you.

MR. NEWMAN: I accept.

MR. DiPAOLA: The two exhibits I had I gave to you.

MR. NEWMAN: I gave mine.

THE COURT: Then the stipulation is the clerk may send in any exhibits.

MR. DiPAOLA: Exhibits requested by the jurors.

THE COURT: Any exhibits requested by the jurors.

MR. GOLDBERG: Well, we are going to have a problem with some of the exhibits. Take the Schoengold testimony. We will have to block it out if they want that one. We will have to block out pages. You recollect we read from one line and then a few other lines and then blocked out in the middle.

Then I marked up two exhibits, but I gave clean copies to Mr. Schreiber on the --

THE COURT: This all relates to defendants' exhibits?

MR. GOLDBERG: Yes.

THE COURT: All right.

The defendants will only give the clerk such exhibits as are free to go in.

MR. NEWMAN: All right.

MR. LiPAOLA: That's right, Judge.

(In open court.)

THE COURT: Nov, Alternate No. 4, you remember

you asked me whether you could expect to be kept and I kind of fudged the question. I am not in the habit of fudging questions, but I am going to excuse Alternate No. 1 at this time for reasons that we discussed. I am going to retain --

MR. SCHREIBER: If your Honor please -- I am sorry, I don't want to interrupt your Honor, but I believe the juror may be going toward the jury room.

THE COURT: Where is his coat?

MR. SCHREIBER: They started deliberations and I don't want to have a problem.

THE COURT: Mr. Clerk, escort Alternate No. 1 out.

Thank you very much.

ALTERNATE NO. 1: I am finished here, Judge?

THE COURT: You are finished.

ALTERNATE NO. 1: I will take my coat and lunch and go.

THE COURT: It's not likely, but it is nonetheless possible for one of the jurors to become sick, or something of that nature. And so I am going to make provision for you. You are under the same admonition as you would ordinarily be if you were a juror. You can't discuss the case amongst yourselves or with anyone else.

And if it should happen that one of the jurors becomes incapacitated and one of you should take his or her place I would then discuss with you in detail what the implications of that is. However, we can't cross that bridge until we come to it. Hopefully we won't.

However, the reason I fudged Alternate 4's question was most of the rules and regulations we have here are reasonable, but there is one I don't quite understand, but it is highly important that the jurors sitting don't know there are any alternates available. Why that should be important I can't figure out.

So the marshal has explicit instructions that it never come to the other jurors' attention that you are so available. And I ask you to cooperate with the marshal in that respect.

Have you got their lunch?

THE CLERK: Yes. And there is another deputy marshal to be sworn.

THE COURT: Will you swear him?

(Deputy marshal sworn.)

MR. SCHREIBER: If your Honor please, they are not to walk by the door there.

THE COURT: The door is closed.

MR. SCHREIBER: Is the door closed?

THE CLERK: We have got it all covered.

MR. SCHNEIDER: Thank you very much.

THE COURT: All right, gentlemen, be on call. I will be in my chambers.

MR. NEWMAN: Can we go out to get something to eat before we go on call?

THE COURT: Yes.

Use your common sense.

(Recess.)

ard

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA

versus 73 Cr. 699

VINCENT ALOI,

Defendant.

----------X

Before:

Hon. Whitman Knapp,

District Judge.

New York, N.Y.
February 5, 1974

APPEARANCES:

PAUL J. CURRAN, Esq.
United States Attorney for the
Southern District of New York
By: JAMES SCHREIBER, Esq.,
BANCROFT LITTLEFIELD, Esq., and
ALAN KAUFMAN, Esq.,
Assistant U. S. Attorneys

JEROME LEWIS, Esq.
Attorney for Defendant VINCENT ALOI

THE COURT: It seems to me it would be sensible to have the government speak first and then respective counsel address themselves to the government statement.

MR. LEWIS: I have no objection.

MR. SCHREIBER: As your Honor is aware, in the memorandum setting forth the recommendations of the United States Attorney's office, it is the considered judgment of the office that the recommendation, the actual sentence to be imposed on Mr. Aloi --

THE COURT: Defense counsel have been handed everything?

MR. SCHREIBER: Yes, your Honor. All counsel were supplied with copies both of the specific recommendations and the factual background and, in addition, the government's memorandum of law on your Honor's authority to remand the defendants after sentence.

The specific recommendations with respect to Mr. Vincent Aloi are that he be sentenced to the maximum jail sentence and the maximum fines totalling 15 years imprisonment and $16,000 in fines to be served consecutively to his state perjury charge growing out of the investigation of the murder of Joseph Gallo.

Mr. Aloi is approximately 39 years old. In 1952 at the age of 18 approximately he was arrested and convicted

ard
on gambling charges.

Between 1952 and 1962, he was arrested seven times, sometimes using an alias, Vincent Alia.

Since 1952 he has engaged in increasingly serious violations of law and, at the same time, he has been carving out a niche for himself in the world of organized crime.

Looked at in terms of career development it has been a rapid development, to fairly recently where he is reputed to be reliably the acting head of the organized crime family in New York and evidence at this trial before your Honor corroborated, it seems to me in detail, the fact that Mr. Aloi had an exercise and was able to exercise substantial power and control in connection with the commission of crimes.

In the At-Your-Service Leasing deal he was the person to whom Savino and Fusco went in relation to Hellerman's earning $45,000 from his group at a time when he owed them some $10,000 from an earlier sit-down between Vincent Aloi and John Dioguardi.

Vincent Aloi was able to exercise power to cause the return of the up front money, the $22,500 going to be used to bribe brokers. He was the one who then set the conditions that there be no front money, no advance money

ard
and that if Hellerman agreed to those terms, Hellerman and Dioguardi agreed to those terms, then $10,000 of the initial proceeds of that fraud had to be paid to Savino and Fusco and another $10,000 paid to Lombardo and without that agreement by Dio and Hellerman there would have been no crime.

Those are conditions that Vincent Aloi set, those were the terms under which this fraudulent offer went forward.

Another indication of his power was that the proceeds, $45,000 in cash, was actually delivered to him to make the distribution and it seems to me that while he received nothing, at least as far as our evidence goes out of that $25,000 that he paid to two -- three of his associates, Lombardo and Fusco and Savino, that there did come a time and possibly in February of 1971, when Aloi summoned Graifer to New York and your Honor may recall the testimony, the thrust of the conversation at that time was Vincent Aloi asking Graifer whether he was doing anything to bring any heat.

I submit to your Honor that that was a question he put to Graifer to determine whether Graifer was vulnerable to law enforcement because if Graifer was vulnerable to law enforcement then he was a potential witness against Vincent Aloi and when Graifer said, I haven't been doing anything

ard
except a little shylocking, that didn't pose a problem to Aloi and then Aloi said, "You know that $37,500 that you took from Hellerman, I need it, I want it."

That $37,500 was the proceeds of the after market manipulation that Graifer borrowed from Hellerman until the second half of the fraudulent offer had been completed or would be completed. There came a time when Hellerman wasn't to do the second half and Dioguardi insisted that Lombardo come up to his office and put on record that Graifer had that $37,500 because it hadn't been put on the record before that.

Then there came a time your Honor may recall where there was a sit-down and the sit-down never came off because Mr. Dioguardi went to jail on October 2nd.

In February of 1971, Vincent Aloi is telling Graifer he wants that money at a time when Graifer's contacts with Hellerman were severed because Aloi is told not to talk to him any more. It seems to me the inference is compelling that Vincent Aloi at that stage, because he was so involved in this deal, hadn't gotten anything out of it.

I think he remarked Lombardo was on the payroll for $200 and he would sell his soul or sell his mother for $200 and all I've gotten out of this is a ton of aggravation. What he was really seeking in February was to benefit from

ard
that fraud himself and he told Graifer he wanted that money.

It was only after Graifer went to Buster Aloi that he was able to persuade Buster Aloi to lift the obligation from him and if Graifer hadn't been able to persuade Buster to lift that obligation from him, I think the conclusion is also, the inference is also strong that Graifer would have been obligated to pay Vincent Aloi that $37,500 that he had stolen from Hellerman.

So really what you have in connection with this case, your Honor, you have a person who is a very powerful person in organized crime, who exercised his authority to shape the direction of this fraudulent offer and who did that to insure that his subordinates, his associates, received money and then at the end, he himself sought to benefit.

I think that there is another factor that is important with respect to Mr. Aloi and that is Mr. Aloi seeks to maintain an illusion to the world and perhaps to this Court that he is basically a legitimate businessman who had really no connection with this crime whatsoever.

He appears to one looking at him as a soft-spoken, understated, highly intelligent individual and he is able to perpetuate that illusion I think fairly successfully until you analyze certain facts about him.

His income reported for federal income tax purposes in 1971 was $116,000.

In 1964, less than seven years before, he reported an income of $4,000. So in those seven years his income has grown from $4,000 a year to $116,000 a year.

He receives a salary or received a salary from City Carriers of $20,000 for which his duties are rather vague. The people at City Carriers have said Mr. Aloi has no set hours, no set working days, and that he was valuable to the company for the good will and rapport that he established. I may point out that City Carriers I believe is located in the garment industry.

Mr. Aloi also reported an income of approximately $20,000 from Cameo Wedding Time in 1971, and Cameo Wedding Time employed him as outside salesman to solicit business. That is, to find any brides who were in need of wedding services. He made $20,000 for that which seemed just to show exactly what we are talking about, that he has been put on payrolls of companies to create the appearance of legitimacy where in fact there is none.

In 1970 he was indicted in connection with the Imperial Investment fraud. He was tried in a fairly lengthy trial before Judge Lasker and acquitted of that trial. During the course of that trial he met with Michael Hellerman

ard

at Angelo's Restaurant and after a conversation with Mr. Aloi's lawyer about the possibility of Hellerman testifying, after Hellerman gave Mr. Aloi's attorney some information about Jack Kelsey who was one of two government witnesses against Mr. Aloi in that case, Mr. Aloi had a conversation with Hellerman in which he told Hellerman that if he did any time, did one minute of time on that charge, he would kill not only Kelsey but Kelsey's family, Kelsey's children. I submit to your Honor that that was information supplied by Hellerman, that that conversation was not only an indication of a threat to Kelsey but a clear warning to Hellerman of the possible consequences to Hellerman if Hellerman became a government witness.

I think that it is also important for the Court to recognize that Mr. Aloi is not a person who didn't have the power to carry out that threat, a threat of that sort. Sworn testimony at his perjury trial in the state was to the effect that he first sought unsuccessfully to lure Joey Gallo to a sit-down on the pretense of resolving problems that had developed in his particular organized crime family.

The pretense was to get him there and then kill Joey Gallo and when that failed, the testimony was that Joseph Luparele, who was a government witness now in protective custody, that Vincent Aloi authorized an open

at Angelo's Restaurant and after a conversation with Mr. Aloi's lawyer about the possibility of Hellerman testifying, after Hellerman gave Mr. Aloi's attorney some information about Jack Kelsey who was one of two government witnesses against Mr. Aloi in that case, Mr. Aloi had a conversation with Hellerman in which he told Hellerman that if he did any time, did one minute of time on that charge, he would kill not only Kelsey but Kelsey's family, Kelsey's children. I submit to your Honor that that was information supplied by Hellerman, that that conversation was not only an indication of a threat to Kelsey but a clear warning to Hellerman of the possible consequences to Hellerman if Hellerman became a government witness.

I think that it is also important for the Court to recognize that Mr. Aloi is not a person who didn't have the power to carry out that threat, a threat of that sort. Sworn testimony at his perjury trial in the state was to the effect that he first sought unsuccessfully to lure Joey Gallo to a sit-down on the pretense of resolving problems that had developed in his particular organized crime family.

The pretense was to get him there and then kill Joey Gallo and when that failed, the testimony was that Joseph Luparele , who was a government witness now in protective custody, that Vincent Aloi authorized an open

ard
contract to murder Joey Gallo and that that murder was actually carried out by his associates who then hid out in that Nyack apartment. Mr. Aloi went there and was seen by surveillance agents when he appeared before the state grand jury, he denied that he had been at that hide-out.

So when you really analyze who is before you, again, you are dealing I submit with a professional criminal, who isn't deterred by the laws of our society that we all obey. They are just detours that have to be gone around but not obstacles and never raised the question of whether or not to commit criminal violations but how to commit them from an insulated position and I think that the evidence at this trial showed that Vincent Aloi's involvement in the At-Your-Service Leasing fraud was from an insulated position.

I think that he applied his knowledge of law enforcement to insulate himself from detection and I repeat from detection rather than from the commission, because he did commit the crime and he did it with an awareness, pre-meditated awareness of what investigators would have to do and I submit to you that these are factors that your Honor ought to take into account.

They are factors that the United States Attorney's office considered and weighed in making the recommendations that we did.

ard

As far as mitigating factors, again, looking back over the last 22 years, since 1952, Mr. Aloi's adult life, I don't think there is much that can be said in his favor. I submit that maximum sentence and the maximum fine would be entirely appropriate in the circumstances.

THE COURT: I said I would take the three, but I didn't realize these were going to be so detailed, so I will hear Mr. Lewis.

MR. LEWIS: May it please your Honor, on behalf of Mr. Aloi, in order to counteract Mr. Schreiber's ever fertile imagination, let us go to the criminal record that he talks about.

About 21 years ago he paid a $25 fine for shooting dice. Six years later, also another dice game, this time dismissed.

June of 1958, shooting dice, he got a suspended sentence. The same month again, doing the same thing, a suspended sentence.

The same month again, 1958, Judge, a $10 fine and then he committed a real serious crime. He was in company with his dad and his brother and he was arrested for consorting with known criminals. Of course, the judge acquitted him on that charge. It's a pretty sorry day in this country when you associate with your father and your

ard

brother and you are picked up on a vagrancy charge.

Now, in 1962 rather, once again we find dice playing and that case was dismissed.

Now I submit to your Honor that in itself certainly doesn't show the man to be a criminal and in the highest echelons of so-called organized crime society in the State of New York. A few convictions for shooting dice, that is about all it amounted to.

Now in January of 1973 he was convicted of the crime of perjury and as always the government isn't asking your Honor merely to sentence him in this case, but is asking to sentence him because he was the instrumentality that led to the death of that very estimable gentlemen called Joseph Gallo. It is surprising, Judge, that since that death Mr. Aloi has never been questioned by the authorities concerning it. He has never been arrested and he's never been indicted.

THE COURT: He was questioned by the authorities and he denied knowledge and was indicted for perjury.

MR. LEWIS: Not about the death of Joseph Gallo. Whether he went to the apartment, the Nyack apartment, this was after the death.

Now, Judge, I want you to understand one thing, that particular case I didn't try but I am familiar with it,

but the chief state witness was a man by the name of Luparele who is a mentally ill individual and this man drew upon his imagination. As a matter of fact he was also the government's chief witness against Carmine Persico before Judge Bartels. Judge Bartels tried the case without a jury and Judge Bartels paid no credence whatsoever to the testimony of Luparele and acquitted Carmine Persico.

And all that you hear from the government is not based upon the definite knowledge that they have. It is based upon the testimony of a man by the name of Luparele who makes these assertions, who there is no doubt about it became mentally ill and twice in police custody tried to commit suicide.

Now, we also have these other assertions of what took place in Angelo's Restaurant, the threat to Mr. Kelsey. Well, Mr. Hellerman at that time was cooperating with the government. He took the witness stand, he never pointed an accusing finger at Mr. Aloi.

THE COURT: He claimed his Fifth.

MR. LEWIS: He took his Fifth. We had a number of conversations before Judge Lasker in the robing room. Never did the government mention anything at all --

THE COURT: The government at that time wasn't admitting that it knew Hellerman or was dealing with

ard

Hellerman so obviously they wouldn't admit anything that --

MR. LEWIS: They could have said it to Judge Lasker.

THE COURT: How do you know they didn't?

MR. LEWIS: They didn't because it never came out.

THE COURT: If Judge Lasker was told in confidence he certainly wouldn't have blurted it out. I don't know. I don't see this is relevant.

MR. LEWIS: Then Judge, I look at it from another angle. Mr. Aloi took the witness stand. Certainly they could have asked him those questions.

THE COURT: How could they without referring to the fact that Hellerman was working with them and they didn't want that revealed.

MR. LEWIS: They could have asked him did he ever threaten the life of Kelsey, that would show a motive, a consciousness of guilt without --

THE COURT: Not without showing that Hellerman told him that which they didn't want to leak out.

MR. LEWIS: Judge, they could have asked that question.

THE COURT: They couldn't haveasked that question without revealing to him how they knew what he said

ard
if he said it at all.

MR. LEWIS: They very easily could have said have you ever theatened the life of --

THE COURT: But if in fact he had so threatened before Hellerman, that question would reveal that which they didn't want him to know that they were dealing with Hellerman.

MR. LEWIS: There are ways of getting around it.

But whatever it is, Judge, once again you have the testimony of a Hellerman. Now certainly that man has no halo around his head and that man is determined not to go to jail and play ball with the government and your Honor knows that.

Not everything that comes forth from this man's mouth is true and credible. Now they talk about being on the payroll, not doing anything. The insidiousness of it is this, that he is insulating himself into these various companies and he is getting paid off for doing nothing at all.

Mr. Aloi took the witness stand. They could have questioned him on cross-examination concerning his activities and they did that and that jury believed him and acquitted him. All of this came out.

You talk about his income tax returns. This man

ard

has paid his income tax returns every year. He is being audited every year. The income tax department, the Internal Revenue Service found nothing wrong with that which he declared.

I mean these are things that are coming up now in an effort to tar and feather this man and that sounds like a re-enactment of The Godfather in this courtroom. There is a scenario that has been drawn up by the United States Government.

This man in the past 20 years of his life outside of the few convictions for shooting crap and the conviction had before Judge Murtagh in regard to that case, Judge, may I say this:

That there was sufficient to warrant Judge Postel in granting a certificate of reasonable doubt and that matter is now up before the Appellate Division.

When that jury retired it deliberated for many hours. They didn't ask to have the testimony of Mr. Luparele read. Because they paid no attention to it. They asked for the testimony of two FBI agents, whether they both saw Mr. Aloi at that Nyack apartment house and they were concerned with whether or not the two FBI agents had testified that is the equivalent of one so there would have been no corroboration.

ard

But Judge Murtagh was right and what two different witnesses saw, one corroborated the other.

Now, I read the presentence report, Judge, and it makes allegations not based on anything that the parole officer has found out as a result of his own activities, but things that are allegedly told to him by the FBI, who have been told by others, unless the FBI suddenly has become a member of organized crime in the high echelon so they know who is acting head and who delegates authority to various individuals.

This is hearsay upon hearsay and may I respectfully submit to your Honor that I had this happen before Judge Weinstein a couple of years ago and I picked up a presentence report and my client denied vociferously many of the allegations contained therein and I asked the probation officer is there anything here of your own knowledge. He said no, only what the FBI told me. And Judge Weinstein said to the Assistant, "I'm going to order a hearing, I want you to bring in the FBI agents."

Do you know what the answer was? "We will not bring in the FBI agents. We will stand on the report."

So my man instead of getting three years got six months. That is what I ask in this particular case. Let the government produce evidence, proof before your Honor

ard

that these accusations and these allegations of lawlessness, of criminal activity, of killings, of ordering people to do things, be proved to your Honor's satisfaction.

I say to denigrate an individual by character assassination, by hearsay upon hearsay, I say is manifestly unfair. Unless our probation officer can go in and say to your Honor, I have made the research, I have gone out and found this and I am satisfied of my own knowledge, but to tell us what the FBI tells him who were told by somebody else, I say is unfair.

MR. SCHREIBER: Just to correct something Mr. Lewis said --

MR. LEWIS: Do you mind if I finish? I didn't interrupt you.

MR. SCHREIBER: You made a statement which I want to correct for the record.

MR. LEWIS: I tried not to interrupt you.

MR. SCHREIBER: I'm sorry, Mr. Lewis.

THE COURT: I thought you were finished, too.

MR. LEWIS: No. I didn't prepare a report like the government did and I was trying to give you my reactions, your Honor. All I know is my client is married, is 40 years of age, got three young children ranging from 8 to 12. He lives in a modest home that he owns up in Suffern, New York,

and there's nothing ostentatious about it, nothing that the Internal Revenue ever felt they ought to make a case on the net worth theory.

And, Judge, if he made these fantastic fabulous sums as the government indicates, there would have been an income tax case pending at the present time. He has worked for these firms, it appears in his income tax returns, they have been checked out every year.

Now your Honor knows this, that Mr. Aloi was sentenced by Judge Murtagh to a maximum sentence, from two to seven. All the horrendous and gory details about the killing of Gallo came to the attention of Judge Murtagh and everything that has been said here has been repeated before Judge Murtagh and Judge Murtagh had it and he gave him a sentence of two to seven years.

I say to your Honor that in all fairness --

THE COURT: Two and a half to seven.

MR. LEWIS: Two and a quarter to seven. I say this to your Honor, that when you look at the facts in our case, where Graifer testified and since he was found guilty I guess the jury believed Mr. Graifer, that Mr. Aloi said to him, all I got out of this thing was aggravation, I got into this thing through no fault of my own, I did it as an accommodation for my father.

He didn't get a penny, he didn't get $45,000 to distribute. $25,000 was debt that Dioguardi and Hellerman allegedly owed to DiLorenzo. Of course we've had four different versions of what happened to the $45,000.

But I think it is rather ridiculous that if Mr. Aloi got $45,000, Dio gave Aloi $45,000 and then Aloi turned and gives him back $25,000. If that was so, all Aloi had to do -- all Dio had to do was give him $20,000.

$10,000 was debt the government says that was due to Lombardo, $10,000 due to some stock that Savino -- and Fusco said they were -- as a result of being taken by Hellerman. This wasn't anything that we won't let you continue in business unless you pay tribute. We are levying tribute upon you, you've got to pay $20,000. All Hellerman did was return money that he owed and he didn't get a dime of it.

Coming to the 37, 5, Judge, the evidence indicates that it was Hellerman who asked for the 37, 5 and that money was to go back to Hellerman and that is why they were going to have a sit-down to adjudicate that whether Graifer owed it to Hellerman or not. It had nothing to do with Mr. Aloi.

This inference that your Honor's asked to draw, you see that Aloi was going to get 37,5 that wasn't the

ard
evidence in the case. It was Hellerman who wanted that 37, 5 because he previously had given it to Graifer and Graifer and Graifer said look, that man took me for $150,000, I'm not going to give the 37, 5 back.

Now I respectfully submit, Judge, in the interests of justice, denigration is not the answer, nor is character assassination. To bring up a man who got a $10 fine for shooting crap, and we do know that the only crimes, the only real crime, not talking about vagrancy, because he was associating with his father and brother.

The only crime really this man has been convicted of in 40 years of life is that perjury and that is now up on appeal before the Appellate Division and we do hope that it will be reversed.

But whatever it is, Judge, a Supreme Court judge believed there was sufficient merit in it to give a certificate of reasonable doubt and I say to your Honor in this particular case, fairness, mercy, should also be extended and understanding. That in view of Mr. Aloi's family life, and there is nothing to indicate otherwise, nothing about running around with other women, nothing about gambling, nothing about going to the race track and betting heavy sums of money. There is nothing to show otherwise that he takes care of his family and the fact that the

ard

government says, well, he assumed this role of a businessman, there is nothing to show to the contrary that he isn't a businessman who pays his taxes to the government, who has been audited every year and nothing has been found wrong.

I respectfully submit that this man now has received a two and a quarter to seven year sentence and that is sufficient and based upon all of the other cases that I have come across in these stock security cases, the Four Seasons with a million dollars, a year's sentence. The Projansky case that ran into millions of dollars, a sentence of six months to eighteen months. The government now comes in on a stock fraud case which involves this man, tops $20,000, where he didn't get a dime, and asks for 15 years. They are not asking for a conviction based upon the case but they are asking for it because his name is Vincent Aloi so they can make the headlines tomorrow.

I respectfully submit that is not the province of the government because they should be interested in seeing that justice is done. I respectfully ask your Honor in view of what happened in all the other stock cases, involving people, forget about their names, the ordinary stock case where you get anywhere from suspended sentence to 18 months, particularly in a little thing like this involving $20,000, I ask your Honor to give my man a

ard

suspended sentence.

THE COURT: Don't say anything about the facts in this case, I remember perfectly well.

MR. SCHREIBER: Your Honor, I just want to correct one statement.

Mr. Lewis made a statement that Mr. Aloi had been arrested in 1961 for consorting with known criminals that included his father and his brother. Actually, Mr. Aloi was arrested on June 8, 1971 and not with his father and brother, but with the following people: Ralph Marino, John DeAngelo, Sylvester Bruno, Albert Sabella, and Frank Massa. Every one of these people has an FBI number and two are listed by the New York City Police Department as, having an indication KG, which is a known gambler and he was arrested at the Victory Club, 1544 I guess it is, Gater Avenue in Brooklyn. So it was not for consorting with his father and brother.

MR. LEWIS: And he was acquitted.

THE COURT: Mr. Aloi, do you have anything to say?

DEFENDANT ALOI: No, your Honor.

THE COURT: Well, this case in a sense poses a dilemma. These are various facts about other things, except what is involved in this case, the probation report and the sentence, in that the writer, the probation officer

said it was beyond his power to separate fact from fiction and I am afraid it is behond my power, too.

Now, the perjury conviction, the logic of committing perjury in the circumstances where Mr. Aloi was found to have committed it, certainly suggests that he knew something about the Gallo killing and he did not wish it disclosed. That is without going into the testimony of the witness whose testimony apparently was that he was responsible for the Gallo killing. Obviously the government and the state did not have sufficient evidence to support that supposition or they would have indicted him for murder.

So if I assume the implication of that fact arising from the conviction, and then the conviction is reversed, which I suppose it may be although Mr. Aloi hasn't perfected it as yet, so there is no way of -- at least my last inquiry of the district attorney's office in the county said they hadn't received Mr. Aloi's brief yet --

MR. LEWIS: I think it was adjourned to April.

THE COURT: There is no way of assessing the value of the appeal, and even if there were it is not my competence to do so. But if I should rely on the implications of that conviction and the conviction is reversed, the impropriety of my so relying would be obvious.

The FBI obviously considers this man as a leader in the underworld organization. Mr. Lewis points out I have no proof of that. On the other hand, the particular facts in this case seem wholly irrelevant whether Mr. Aloi did it for money or did it as an accommodation for his father.

As I pointed out several times during the trial at the side-bar conversations, discussions, it seems to me that the government could have put in evidence testimony in the nature that I was advised at the side-bar that Graifer could have given concerning his conversations with Mr. Aloi's father in which, from which threats could be readily adduced and that he was doing this as a favor to his father. But the government, either out of excess or insufficient caution, time will tell, didn't offer that testimony. It seems to me they could have as part of the case proved how this particular act, this crime was accomplished.

But the verdict makes no sense unless it is assumed that the jury found that Mr. Aloi had the power to regulate the commission of this crime in the manner that the government alleged and the fact that he did it as an accommodation to his father is far from being an extenuating circumstance. To me it seems to suggest, even compel

the conclusion of an on-going criminal relationship between him and his father.

So it seems to me that confining myself to the evidence in this case, I must assume that he exercised considerable power in order to accomplish what the jury found he accomplished. Again, whether he made any money on it or not seems irrelevant.

The government pointed out that directly or indirectly the public lost several millions through the failure of one brokerage firm and the threatened failure of another. Therefore, this isn't a $20,000 case.

I am not familiar with all the sentences that you mentioned. The sentence you referred to involving Judge G**riesa**, the situation was quite different than here. Judge **Griesa** found the plea on which he was acting specifically excluded the major portion of that fraud and therefore Judge **Griesa** properly in my view, acted exclusively on the matter the plea admitted.

Here I am faced with a conviction which is, as I have indicated, makes no sense unless this defendant exercised considerable power over these people and exercised it for criminal purposes and I repeat, the fact he did it as an accommodation for his father, to my mind, is not mitigating but maximizing.

On the other hand, I am not overlooking what you say about the family life nor what the probation report says about the dependance of his wife on him. As inevitable in these cases, sometimes the real sufferers of the prison sentence isn't the one who goes to jail but the persons he leaves fehind. I am aware of that. But I don't know any way to deal with that problem.

It seems to me that Mr. Aloi and Mr. Dioguardi are equally of importance in the case that was tried before me with the modification that Mr. Aloi did not take the witness stand and did not commit perjury, for whatever his reasons for not doing it, he didn't, and I think the appropriate sentence would be the same sentence that I administered to Mr. Dioguardi, ex the extra imposed for perjury.

Therefore, on the first count, which is the conspiracy count, the sentence of the Court is five years. On the last count, which is the false financial statement count, the sentence of the Court is four years to run consecutively and consecutive to the sentence imposed by Judge Murtagh. The remaining count, five years execution suspended.

MR. LEWIS: You are giving him a nine year sentence in a stock fraud case?

MR. SCHREIBER: Your Honor, you are imposing a

ard

suspended sentence on Count 10 which is the telephone call?

THE COURT: Yes.

MR. SCHREIBER: What is the probation on that?

THE COURT: The same probation, maximum probation to commence at the end of the sentence.

MR. SCHREIBER: Any fine?

THE COURT: It seems a fine would be appropriate. I will hear you on that.

MR. LEWIS: Well, Judge, you know he has a wife and three small children. Certainly after paying the government taxes and outside of the house he has he hasn't much equity. I think a fine at this time would certainly be extracting a pound of flesh and I would ask your Honor to please reconsider not to make it consecutive. I think a five year sentence in a stock fraud case is certainly sufficient. Not to give a man nine years. What is being done now he is being punished because his last name is Aloi, not for what he did in this particular case, Judge.

THE COURT: No.

MR. LEWIS: I ask you to reconsider to make the second count run concurrent with the first count. You just ruined this man for his entire life, just destroyed the family. You don't give him a chance. He got two to seven years facing him and now you give him nine years. You might

as well give him some cyanide and let him end his life.

MR. SCHREIBER: I think that comment -- I'm not going to characterize that comment, but, your Honor, there is just nothing to indicate that Mr. Aloi is going to repudiate his adult life. I think that the sentence that your Honor imposed is in the light of the recommendations which were the considered judgments of this office, are appropriate and fair.

Your Honor is going to hear some argument on the fine, I believe, not on reconsideration of sentence that your Honor has imposed already.

MR. LEWIS: Does your Honor conclude if I ask for reconsideration have I committed a horrendous crime now?

THE COURT: No. On the question of the fine, I think I will impose a fine at this time but I will permit you to, because you have a right to move to reconsider anything at any time, I can't stop you from that, but I will now tell you I will entertain a motion to reconsider the fine on your being able to bring to my attention circumstances concerning his family situation and I will hear the government on that at a separate time.

But the fine is now imposed but I will entertain an application to remit the fine. The fine is $16,000, the maximum fine to each count.

ard

MR. SCHREIBER: Did your Honor want to hear the government on the question of bail and remand?

THE COURT: I will hear that in a special statement.

MR. SCHREIBER: Mr. Dioguardi left the courtroom. Had your Honor intended to impose a fine on that sentence?

MR. GOLDBERG: The sentence has been imposed already.

THE COURT: I think the maximum has been imposed.

(Recess.)

MR. LEWIS: Your Honor, as to Mr. Lombardo, the government can tell you that since he is a loanshark, his criminal activities would continue on. As to Mr. Savino they contended well, he has outstanding indictments against him. As to Mr. Aloi we have neither. The government now says in their papers there is grave doubt whether in view of his legal difficulties he is still the head of the Columbo family.

This question was thoroughly thrashed out in the Supreme Court.

THE COURT: What question?

MR. LEWIS: Of bail. Judge Murtagh remanded him as is done in the state courts after a verdict of guilty

ard

and then an application --

THE COURT: The Supreme Court of the State?

MR. LEWIS: The State of New York. Judge Murtagh has not been elevated yet.

THE COURT: When you say Judge Murtagh, I realize that.

MR. LEWIS: And the matter was thoroughly threshed out before the Supreme Court, Judge Postel, and he granted bail and a certificate of reasonable doubt. The bail is now in the state court $50,000 surety bond. We have a $25,000 surety bond here and a $25,000 recognizance bond. For the surety bond, Judge, we have his home that was put up that is $45,000 equity.

Now, this man came to court knowing he was going to get a sentence because probation suggested commitment and I wasn't naive enough to feel that your Honor was going to give him a suspended sentence. Nevertheless, he showed up.

He is perfecting his appeal in the Appellate Division, Judge. If this man was going to flee, he wouldn't come here today. It is inconceivable and the probation report indicates that he is a good husband and a good father, and there is a good family relationship. That he would have the govenyment foreclose, or not the government, but the surety company, foreclose upon his home and have his

ard

family out on the street.

Now, he has attended even in that great snowstorm we had, he came in from Suffern here and he was here before 10:00 o'clock.

THE COURT: I'm not concerned about his fleeing.

MR. LEWIS: Now, the question is there is no proof, there are no other criminal charges against him. The only thing we have is this case and the one where he was sentenced by Judge Murtagh.

There is no proof indicated that this man is doing anything illegal; if he had that tremendous power as the government infers, he could transmit that power to subordinates whether in West Street, Danbury or Lewisburg. Because if you have the power it just doesn't cease when you are confined or incarcerated.

THE COURT: The rule doesn't say though that I can't or shouldn't commit him. It just says I am under the rule to commit him unless I believe that you persuade me that he is no danger to the community in the sense of committing other crimes.

MR. LEWIS: That he is not a danger to the community. Yes, I say, Judge, since there is nothing to indicate that he is committing any other crime, there is no proof, there is no inditia of that. There is this crime

and then the perjury and the other cases Judge. They go back when he was a kid, 20 years ago, 15 years ago, shooting crap.

If you are looking for other criminal activity, there is no showing that he is involved in any major crimes except for the perjury case which is now on appeal and there is nothing to indicate that this man is a danger to the community at the present time. There is nothing.

May I say this, in the past couple of years, last year or so I had been before the Court of Appeals and I know this and I can say that to your Honor, except for a narcotics case have I ever been turned down, and even in a narcotics case, Judge, I have a few times, the trial judge granted people bail pending appeal.

Now, there's no great harm, there is no danger to the community unless -- all I can do is tell you there is nothing pending against him. The man is working steadily. He is paying his taxes to the government, he is perfecting his appeal to the Appellate Division. We will perfect this appeal expeditiously and you know our Court of Appeals today works very, very quickly. You don't even get the statutory period of time to perfect your record and get your appeal in.

Now, the next couple of months that he will be out, Judge, it is important that he make arrangements to take care of his family, he's got to hire an appeals man. He

ard

hasn't done that yet. It has only been in the talking stage.

He got this other appeal coming up in the Appellate Division. Now, the raft of things a man has to do and you can't do it, Judge, going down to West Street and sitting down talking with him. There is a big record. We have over 6,000 pages.

THE COURT: Is there a need to discuss this?

MR. LEWIS: Yes, you would be surprised how many times I found that out, that a defendant gives a very good suggestion, something that we have overlooked, because this is their dominant thought in life whereas to us it is just another case.

I get ready to try another case. But they live with it, Judge, and they come up with some good ideas and I think when a man's liberty's at stake, all he is asking for perhaps is a couple of months, and nothing for the government to say that this man will be a danger to the community when now they even profess some grave doubts whether he still has or still is the head of the Columbo family if he ever were and I am not saying he ever was.

So I respectfully submit to your Honor that in view of the fact that there are no accusations or charges pending against him at the present time, I respectfully sub-

mit, Judge, this man took the stand and testified in the Imperial case. Tramunti took the stand, Gugliermi took the stand. Tramunti and Aloi were acquitted with a hung jury; as to Gugliermi, he was acquitted on the second trial.

MR. SCHREIBER: Both Tramunti and Gugliermi were convicted of perjury.

MR. LEWIS: They were convicted of perjury, that is what I am bringing out. They have never indicted my client for committing perjury on the witness stand. I think that is an inditia, too.

I ask you out of fairness and I mean there's no such thing here as exacting a pound of flesh, I just don't understand it. He got a nine year sentence which is unparallelled in a stock fraud case, to give consecutive sentences. It is in your Honor's discretion and there is nothing I can do about it, but for God's sake, let us give the man bail pending appeal.

MR. SCHREIBER: Your Honor, I think first of all, I want to address myself quickly to something that Mr. Lewis said. Mr. Aloi hasn't even filed his papers on appeal yet.

MR. LEWIS: I've got the notice of appeal right here. It will be filed within ten minutes of time.

MR. SCHREIBER: The state.

MR. LEWIS: It is set down for argument in April.

MR. SCHREIBER: It is a substantial period of time. The most important thing to me, I think your Honor ought to consider which you obviously considered, was Lombardo but also I think with respect to Mr. Aloi, who is he and what is he? And does he, in the light of who he is, pose a danger to the community?

And your Honor used a word which I think is the essence of what the government's position is with respect to Mr. Aloi and that is the question of power and the power to exercise through subordinates, power that is exercised to commit crimes, but nonetheless which insulates the actual person who directs the crimes, in this case, Mr. Aloi.

Now, in connection with the Gallo case, I have to keep going back to that, Mr. Aloi's power in connection with that simply was simply that he authorized somebody else to commit a murder, which he was removed from by layer after layer after layer of people. In other words, he didn't have to go out and say go do it, he just let the word go forth to do it. That was the kind of power that he has and I think that your Honor has to take into consideration that.

Now, in connection with this case, he had the power to shape the form of this fraud and I just don't thin

ard

Mr. Lewis has come forward and met the burden which is clearly on him, to prove that Mr. Aloi is not a danger to the community or to any person in the community.

MR. LEWIS: Judge, may I respectfully say this: that the same argument was advanced by the District Attorney's office before Judge Postel and he was granted bail.

May I say this, your Honor, the government says he ordered the killing. He doesn't know anything about it. Who does he depend upon, Judge? A man by the name of Luparelli. If he had a trial and Luparelli's accusations were justified, then they would be justified. But since when do we in this country on a mere accusation consider it as a fait accompli that it really happened?

Even all these high government officials today who are hollering about presumption of innocence and asking for their day in court. They once headed the Department of Justice too.

THE COURT: The perjury conviction which I have to assume is a conviction, I couldn't, I hope I didn't take it into account on fixing the term.

MR. LEWIS: You must have, Judge, because you gave him the maximum.

THE COURT: I could have given him another five

ard

years.

MR. LEWIS: Judge, nobody gives consecutives, it is a rarity to have a judge give consecutive sentences in a federal court.

THE COURT: There is another question, you say I gave the maximum. I didn't give the maximum.

MR. LEWIS: You gave him five years on the first count and near maximum on the second, you gave four.

THE COURT: That is correct. However, it seems to me I can and I must take in the implications of that conviction in considering this question of whether you bore the burden.

MR. LEWIS: Judge, that conviction only went to one question, was he at that Nyack apartment. Nothing about killing or anything.

THE COURT: I understand that, but that was an investigation.

MR. LEWIS: They weren't investigating him.

THE COURT: I can see no motive why he should have lied about it.

MR. LEWIS: Judge, they weren't investigating. Two FBI agents who lived in an adjoining house said they saw him there that particular night. They weren't investigating Mr. Alo. Judge, they weren't.

THE COURT: I can see no logic in his having lied about it unless he were doing something there which was pertinent to some crime and the only crime that I have heard about that was any way involved in that meeting where he denied he was ever there --

MR. LEWIS: Judge, the meeting at the apartment was subsequent to the death of Gallo.

THE COURT: Yes, I know.

MR. LEWIS: That the FBI agents testified to.

THE COURT: I can see no logic to his having lied about it unless he was in some way involved in that killing.

MR. LEWIS: There was nothing to do with any killing, that was something subsequent to Gallo's --

THE COURT: Assuming that he lied, what would be the motive in lying?

MR. LEWIS: He said he wasn't there. The jury disbelieved him.

THE COURT: The jury found otherwise.

MR. LEWIS: That is right. Based upon the testimony of two FBI agents who were not investigating Mr. Aloi. Who said by chance they just happened to be there.

THE COURT: I understand. Assuming as I must that he lied at that time, what motive would you suggest th

ard

I assume he had for that lie?

MR. LEWIS: I can't suggest any motive.

THE COURT: Neither can I except the logical one that he was involved in some way in that killing.

MR. LEWIS: That is all I can do is tell you, your Honor --

THE COURT: As I said, I hope --

MR. LEWIS: That that was gone into thoroughly by another judge and I think we've got to give Judge Postel some credit, he went through that whole thing and he released him on $50,000 bail.

THE COURT: But Judge Postel was not operating under the federal rules.

MR. LEWIS: But Judge, the judges are much tougher in the state courts than the federal courts to get bail pending appeal.

MR. SCHEIBER: Your Honor, I would like to correct something for the record so that it is accurate. As I understand the facts in that case, what happened is that after the murder of Joey Gallo, Luparelli went with Joseph Yachavelli and others to this Nyack hideout and at that time he heard discussions amongst people there about their possibly killing him, so Luparelli fled the apartment and contacted the FBI and the FBI put the apartment under surveillance and

ard

that is what I understand --

MR. LEWIS: Two FBI agents didn't testify to that. They just happened to be in the same building and stated they saw him there.

THE COURT: But I am faced with the fact, I must assume he lied under oath before the grand jury and must have some rational motive for doing it and no one has been able to suggest any to me except to hide himself --

MR. LEWIS: Judge, does that make him a danger to the community? That he is going to commit more crimes because he lied to a state grand jury? Does that mean he is going to commit more crimes?

THE COURT: It does seem to me, yes.

MR. LEWIS: I don't think so, Judge. For that matter the man who got a prior conviction can never get bail.

THE COURT: No, this is a current situation.

MR. LEWIS: Judge, what difference does it make whether you lied five years ago or last year? If you're found guilty of perjury, you're found guilty of perjury.

THE COURT: It makes a lot of difference.

MR. LEWIS: And I mean there is no final adjudication on that. We are in the Appellate Division.

THE COURT: I understand that.

MR. LEWIS: There are sufficient meritorious

points that Judge Postel found and that is why he granted a certificate. As I say too, Judge, one of the other attorneys pointed out, I think it is a very, very fair comment, what if Mr. Aloi is remanded, by the time this case is heard, six months or more go by and this case should be reversed and sent back for a new trial? He is not compensated. You take six months or a year from a man's life, isn't that worth something? Isn't that worth something as against a possible danger to the community?

If this government said that this was a frivolous appeal, and I tell you this is not a frivolous appeal, I think we have many points that are worthy of advancement to the Court of Appeals and I say to your Honor you should take that into consideration. What if you were wrong in remanding him, what do you do then? Just say I'm sorry? You don't go to the Court of Claims or an act of Congress to get compensation for your unlawful incarceration.

THE COURT: I appreciate your point.

MR. LEWIS: All we are asking is a couple of more months, that is all it is, Judge. If we don't expedite this appeal, then I say, recall my man and put him in jail. Expedite the appeal, I don't care. I will work as fast as I can humanly work with a 6,000 page appeal. Within two months I say this case will be heard by our Court of Appeals

and if it is not done then, then remand him. Is that such a big deal, 60 days? That is all we are asking.

THE COURT: No, it is not a big deal but the federal rules have laid down guidelines for my discretion. I am at liberty to ignore them if I wish, of course.

MR. LEWIS: No, no, I wish you to exercise discretion not to ignore your discretion.

THE COURT: I mean, I can ignore the guidelines and say it doesn't apply in this case.

MR. LEWIS: Judge, I don't think within 60 days he is going to be such a dramatic danger to the community that society should feel shocked. There is no proof that he has ever done anything to harm society except for a last conviction for perjury. And this conviction of course.

THE COURT: As I read the guidelines I think I should exercise my discretion by remanding him and I do so.

MR. SCHREIBER: Your Honor, you may want to return to Mr. Savino. I request you to condition his release on bail pending so long as he expedites his appeal so he doesn't drag it now. He is now released with no requirement that appeal be expedited.

THE COURT: You may make such a motion at the appropriate date.

- - -

JUDGMENT AND COMMITMENT

UNITED STATES DISTRICT COURT

FOR THE

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	
v.	)	No. 73 CR 699
	)	
JOHN J. SAVINO	)	

On this 5th day of February, 1974, came the attorney for the government and the defendant appeared in person and by Anthony DiPaola, Esq., counsel.

IT IS ADJUDGED that the defendant upon his plea of not guilty, and a verdict of guilty, has been convicted of the offense of unlawfully, wilfully, and knowingly using and causing to be used an offering circular which was required to be used and filed by the Securities and Exchange Commission, pursuant to Title 15, U.S. Code, Sec. 77s(a) and Rule 256(e) and Form 1A, Schedule 1 as promulgated thereunder, which was false and misleading in light of the circumstances then existing and conspiracy so to do (Title 15, U.S. Code, Secs. 77s, 77x and 17C.F.R. Sec. 230.256; Title 18, U.S. Code, Secs. 371 and 2) as charged in counts 1 and 18, and the court having asked the defendant whether he has anything to

say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWO (2) YEARS and SIX (6) MONTHS on count 1, and FIVE (5) YEARS on count 18. Execution of said term of imprisonment on count 18 is suspended and defendant placed on probation for a period of FIVE (5) YEARS. Defendant is fined in the sum of $10,000 on count 1 and $5,000 on count 18. The defendant is ordered to stand committed until the fine is paid or he is otherwise discharged by due course of law.

Bail pending appeal set in the sum of $150,000 Personal Recognizance Bond (unsecured).

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

A TRUE COPY
RAYMOND F. BURGHARDT, Clerk

By /s/ E.A. Badan
Deputy Clerk

JUDGMENT AND COMMITMENT

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	)	
	)	
v.	)	No. 73 Cr. 699
	)	
VINCENT ALOI	)	

On this 5th day of February, 1974 came the attorney for the government and the defendant appeared in person and by Jerome Lewis, Esq., counsel.

IT IS ADJUDGED that the defendant upon his plea of not guilty, and a verdict of guilty, has been convicted of the offense of unlawfully, wilfully and knowingly devising a scheme and artifice to defraud banks, brokerage houses and purchasers of common stock and to obtain money and property from said persons by means of false and fraudulent pretenses, representations and promises, transmitting and causing to be transmitted by means of wire communication in interstate commerce, writings, signs, signals and sounds for the purpose of executing said scheme and artifice (Title 18, U.S. Code, Secs. 1343 and 2), and unlawfully, wilfully, and knowingly using and causing to be used an offering circular which was required to be used

and filed by the Securities and Exchange Commission, pursuant to Title 15, U.S. Code, Sec. 77s(a) and Rule 256(e) and Form 1A, Schedule I as promulgated thereunder, which was false and misleading in light of the circumstances then existing and conspiracy so to do (Title 15, U.S. Code, Secs. 77s 77x and 17 C.F.R. Sec. 230.256; Title 18, U.S. Code, Secs. 371 and 2) as charged in counts 1, 10 and 18 and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on Count 1 and FOUR (4) YEARS on count 18 to run consecutively to each other and consecutively to the term of imprisonment imposed previously by the State Court, and FIVE (5) YEARS on Count 10, execution of said term of imprisonment on count 10 is suspended and defendant placed on probation for a period of FIVE (5) YEARS.

Defendant is fined the sum of $10,000 on count 1, $1,000

on count 10, and $5,000 on count 18. The defendant is ordered to stand committed until the fine is paid or he is otherwise discharged by due course of law.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

WHITMAN KNAPP
United States District Judge

RAYMOND F. BURGHARDT
Clerk

A True Copy. Certified this 5th day of February, 1974

(Signed) Raymond F. Burghardt (By) Kenneth L. Le Bon
Clerk. Deputy Clerk.

JUDGMENT AND COMMITMENT

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	)	
	)	
v.	)	No. 73 Cr. 699
	)	
RALPH LOMBARDO	)	

On this 5th day of February, 1974 came the attorney for the government and the defendant appeared in person and by Gustave Newman, Esq., counsel.

IT IS ADJUDGED that the defendant upon his plea of not guilty, and a verdict of guilty, has been convicted of the offense of unlawfully, wilfully and knowingly devising a scheme and artifice to defraud banks, brokerage houses and purchasers of common stock and to obtain money and property from said persons by means of false and fraudulent pretenses, representations and promises, transmitting and causing to be transmitted by means of wire communication in interstate commerce, writings, signs, signals and sounds for the purpose of executing said scheme and artifice (Title 18, U.S. Code, Secs. 1343 and 2), and unlawfully, wilfully, and knowingly using and causing to be used an offering circular which was required to be used and filed by the Securities and Exchange Commission, pursuant to

Title 15, U.S. Code, Sec. 77s(a) and Rule 256(e) and Form 1A, Schedule I as promulgated thereunder, which was false and misleading in the light of the circumstances then existing and conspiracy so to do (Title 15, U.S. Code, Secs. 77s, 77x and 17 C.F.R. Sec. 230.256; Title 18, U.S. Code, Secs. 371 and 2), as charged in counts 1, 9 and 18, and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on each of counts 1 and 18, said terms of imprisonment to run concurrent with each other, and FIVE (5) YEARS on count 9. Execution of said term of imprisonment on count 9 is suspended and defendant placed on probation for a period of FIVE (5) YEARS.

Defendant is fined the sum of $10,000 on count 1, $1,000 on count 9 and $5,000 on count 18. The defendant is ordered to stand committed until the fine is paid or he is otherwise

discharged by due course of law.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ WHITMAN KNAPP
United States District Judge

/s/ RAYMOND F. BURGHARDT
Clerk

A True Copy. Certified this 5th day of February, 1974.

(Signed) U.S. Marshal, SDNY. Raymond F. Burghardt

(By) /s/ Kenneth L. Le Bos
Deputy Clerk

JUDGMENT AND COMMITMENT

UNITED STATES DISTRICT COURT

FOR THE

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	
v.	)	
	)	No. 73 Cr. 699
JOHN DIOGUARDI, a/k/a "Johnny Dio"	)	

On this 5th day of February, 1974 came the attorney for the government and the defendant appeared in person and by Jay Goldberg, Esq., counsel.

IT IS ADJUDGED that the defendant upon his plea of not guilty, and a verdict of guilty, has been convicted of the offense of unlawfully, wilfully and knowingly devising a scheme and artifice to defraud banks, brokerage houses and purchasers of common stock and to obtain money and property from said persons by means of false and fraudulent pretenses, representations and promises, transmitting and causing to be transmitted by means of wire communication in interstate commerce, writings, signs, signals and sounds for the purpose of executing said schem (sic) and artifice (Title 18, U.S.

Code, Secs. 1343 and 2), and unlawfully, wilfully and knowingly using and causing to be used an offering circular which was required to be used and filed by the Securities and Exchange Commission, pursuant to Title 15, U.S. Code, Sec. 77s(a) and Rule 256(e) and Form 1A, Schedule I as promulgated thereunder, which was false and misleading in light of the circumstances then existing and conspiracy so to do (Title 15, U.S. Code, Secs. 77s, 77x and 17 C.F.R. Sec. 230.256; Title 18 U.S. Code, Secs. 371 and 2) as charged in counts 1, 9 and 18, and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on each of counts 1 and 18 to run consecutive to each other and to run consecutive with the term of imprisonment imposed in indictment 66 Cr. 385, but concurrent with the term of imprisonment imposed on indictment 71 Cr. 558, and FIVE(5) YEARS

or count 9. Execution of said term of imprisonment on count 9 is suspended and defendant placed on probation for a period of FIVE (5) YEARS.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/Whitman Knapp
United States District Judge

/s/Raymond F. Burghardt
Clerk

NOTICE OF APPEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X
UNITED STATES OF AMERICA,

v.

No. 73 CR 699

JOHN SAVINO,

Defendant.
----------X
S I R :

PLEASE TAKE NOTICE that JOHN SAVINO hereby appeals to the United States Court of Appeals for the Second Circuit from a Judgment of Conviction entered against him by the Hon. Whitman Knapp on February 5th, 1974, wherein the defendant was sentenced to two and one-half (2-1/2) years imprisonment and placed on probation for a term of five (5) years. In addition, the defendant was fined in the maximum amount under the statute.

Dated: New York, New York
February 7th, 1974

Yours, etc.

TO:
HON. PAUL J. CURRAN
United States Attorney
Southern District of New York
United States Courthouse
Foley Square
New York, New York

GERALD L. SHARGEL
Attorney for Defendant
JOHN SAVINO
522 Fifth Avenue
New York, New York 10036
687-4100

Defendant John Savino's
home address is:
18 Oxford Road
East Rockaway, New York

NOTICE OF APPEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X
UNITED STATES OF AMERICA,

-against-

73 Cr. 699

VINCENT ALOI, et al.,

Defendants.
----------X

Notice is hereby given that VINCENT ALOI, the defendant above named, hereby appeals to the United States Court of Appeals for the Second Circuit from the judgmen (sic) of conviction entered in this proceeding on the 5th day of February, 1974.

Dated: February 5, 1974

JEROME LEWIS
Attorney for Defendant
Vincent Aloi
250 Broadway
New York, N.Y.
Wo2-6636

TO:
HON. PAUL CURRAN
U.S. Attorney
Foley Square
New York

WARDEN
c/o Federal House of Detention
429 West Street
New York

NOTICE OF APPEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X
UNITED STATES OF AMERICA,

v.

No. 73 CR 699

RALPH LOMBARDO,

Defendant.
----------X

S I R :

PLEASE TAKE NOTICE that RALPH LOMBARDO hereby appeals to the United States Court of Appeals for the Second Circuit from a Judgment of Conviction entered against him by the Hon. Whitman Knapp on February 5, 1974, wherein the defendant was sentenced to five (5) years imprisonment and placed on probation for a term of five (5) years. In addition, the defendant was fined in the maximum amount under the statute.

Dated: New York, New York
February 7, 1974.

Yours, etc.

GUSTAVE H. NEWMAN
Attorney for Defendant
RALPH LOMBARDO
522 Fifth Avenue
New York, New York 10036
682 4066

TO:
HON. PAUL J. CURRAN
United States Attorney
Southern District of New York
United States Courthouse
Foley Square
New York, New York

NOTICE OF APPEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA,

-against-

No. 73 Cr. 699 (WK)

JOHN DIOGUARDI,

Defendant-Appellant.

----------X

S I R S :

PLEASE TAKE NOTICE that the defendant, John Dioguardi, hereby appeals from the judgment and sentence rendered on February 5, 1974, in the United States District Court for the Southern District of New York (Knapp, D.J.), wherein he was convicted, after jury trial, of the crimes of conspiracy, mail fraud and stock fraud (15 U.S.C. §§77 of (a), 77 S(a), 77 X; 18 U.S.C. §371 & 2; 18 U.S.C. §1341 & 1342) and sentenced to a term of 10 years in prison and five years probation, and

from each and every part thereof.

Dated: February 11, 1974
New York, N.Y.

Yours, etc.

GRETCHEN WHITE OBERMAN, ESQ.
Attorney for Defendant-Appellant
277 Broadway
New York, N.Y. 10007

TO:

Clerk
United States District Court
Southern District of New York

PAUL CURRAN
United States Attorney
Southern District of New York

The defendant is presently incarcerated at the Federal Detention Headquarters, 427 West Street, New York, N.Y.

The warden is located at the same address - 427 West St., N.Y., N.Y.

Two(2)

Service of ~~three (3)~~ copies of the within is hereby admitted this day of

.....

Attorney(s) for